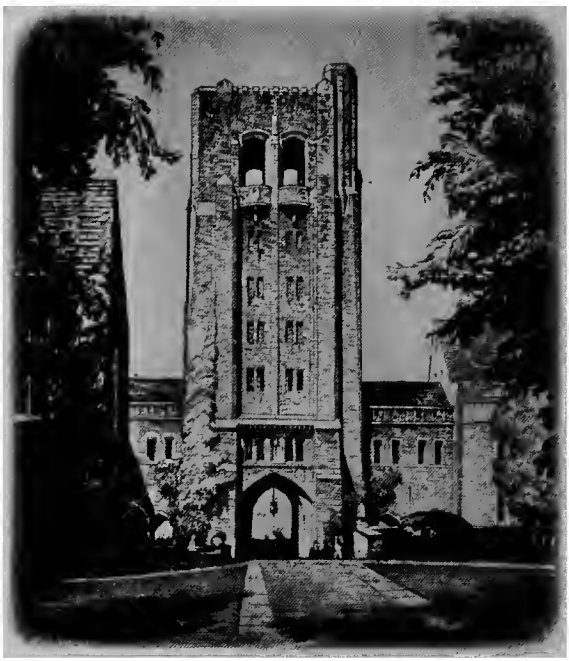


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CHARITABLE TRUSTS ACTS.

THE

CHARITABLE TRUSTS ACTS

1853, 1855, 1860;

THE CHARITY COMMISSIONERS JURISDICTION ACT, 1862;

THE ROMAN CATHOLIC CHARITIES ACTS;

TOGETHER WITH A

Collection of Statutes

RELATING TO OR AFFECTING CHARITIES,

INCLUDING

THE MORTMAIN ACTS.

SECOND EDITION,

With Notes of Cases and Precedents

BY

HUGH COOKE,

AND

R. G. HARWOOD,

OF THE CHARITY COMMISSION.

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LONDON
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TO

THE CHARITY COMMISSIONERS FOR ENGLAND AND WALES,

This Work is

(BY PERMISSION)

MOST RESPECTFULLY DEDICATED.

PREFACE.

SINCE the publication of the First Edition of the Charitable Trusts Acts, we have considered that the Work might be amplified with great advantage, and with this view we have included in the second portion of the present Edition a collection of Statutes, and parts of Statutes, bearing upon the general law affecting Charitable Endowments.

The very full Index which is given to this Collection renders an Introduction unnecessary, and it is thought sufficient to state shortly the plan of the compilation.

Part I. contains the whole of the Charitable Trusts Acts, and the Roman Catholic Charities Acts.

The portions of the Act of 1853 which have been *repealed* by subsequent enactments, and such parts of the Index as refer thereto, *are printed in Italics.*

Part II. contains a general collection of Statutes, and parts of Statutes, affecting Charities.

The references in the Index to this portion of the Work are preceded by a reference to the Statutes to which they respectively relate.

In this Part will also be found a Table of the Legacy

Duties, payable from time to time in respect of Charities, and of the Acts by which they were imposed.

Under the provisions of the Charitable Trusts Acts, 1853 and 1855, the Board of Charity Commissioners are empowered to approve, provisionally, of Schemes for the regulation of Charities, not capable of being established otherwise than by the authority of Parliament. A Table of the Acts comprising such Schemes is included in this Part.

Part III. contains Notes of the more important Cases affecting Charities, decided in and subsequent to the year 1853, when the first Charitable Trusts Act was passed.

The references in the Index to this portion of the Work are, in all cases, followed by the Title of the Suit, or matter to which they relate.

A few predecents, which may be found useful, in the cases to which they are applicable, have also been included in this portion of the Book.

H. C.

October, 1867.

R. G. H.

PREFACE TO THE FIRST EDITION.

THE provisions of "The Charitable Trusts Act, 1853," having been modified and extended by subsequent legislation, it has occurred to us in the course of our official duties as Clerks in the Charity Commission, that an edition of that Act, and of the subsequent Acts affecting Charitable Trusts, together with a general Index, might be of practical utility to Trustees, Clergymen, Parish Officers, Solicitors, and others engaged in the administration of Charities.

These Acts have been reprinted with notes referring to such sections as are affected by more recent enactments.

The several portions of the Act of 1853 which have been repealed, and such parts of the index as refer thereto, are printed in *italics*.

The index has been prepared upon an analytical principle, and the several sections of the various Acts affecting the same points are indicated by double references, the former of which denotes the section sought, and the latter that bearing upon it. In every instance the page is given in addition to the section in order to facilitate the reference.

We have included in this publication the Endowed Schools Act, 1860, by which, in certain cases, the benefits of such

schools are extended to the children of parents not in communion with the church, sect, or denomination, according to the doctrines or formularies of which religious instruction is to be afforded under the endowment; and we have also added the Minutes of the Board of Charity Commissioners relative to the institution and conduct of their proceedings under the jurisdiction created by the Charitable Trusts Act, 1860.

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PART I.

CHARITABLE TRUSTS ACT	(1853) 16 & 17 Vict. c. 137.
CHARITABLE TRUSTS AMENDMENT ACT . . .	(1855) 18 & 19 Vict. c. 124.
CHARITABLE TRUSTS ACT	(1860) 23 & 24 Vict. c. 136.
CHARITY COMMISSIONERS JURISDICTION ACT .	(1862) 25 & 26 Vict. c. 112.
ROMAN CATHOLIC CHARITIES EXEMPTION ACT .	(1856) 19 & 20 Vict. c. 76.
ROMAN CATHOLIC CHARITIES EXEMPTION ACT .	(1857) 20 & 21 Vict. c. 76.
ROMAN CATHOLIC CHARITIES EXEMPTION ACT .	(1858) 21 & 22 Vict. c. 51.
ROMAN CATHOLIC CHARITIES ACT . . .	(1860) 23 & 24 Vict. c. 134.

CHARITABLE TRUSTS ACTS.

16 & 17 VICT. CAP. 137.

An Act for the better Administration of Charitable Trusts.

[20*th August*, 1853.]

WHEREAS it is expedient to provide means for securing the due administration of charitable trusts, and for the more beneficial application of charitable funds in certain cases: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:—

Her Majesty empowered to appoint charity commissioners, secretary, and inspectors.

I. It shall be lawful for Her Majesty and her successors, by warrant under the royal sign manual, to appoint four commissioners, and also one secretary and two (*a*) inspectors, for the purposes of this Act, and upon any vacancy by the death, resignation, or removal of any commissioner, secretary, or inspector under this Act, from time to time in like manner to appoint another person to succeed to such vacancy, and until a fresh appointment shall be made it shall be lawful for the surviving or continuing commissioners, in case of any vacancy, to act as if no such vacancy had occurred; and

(*a*) See "Charitable Trusts Amendment Act, 1855," sec. 3, *post*, p. 43.

three of the said commissioners shall hold office during good behaviour; and the fourth, and every secretary and inspector to be appointed under this Act, shall hold office during the pleasure of Her Majesty.

Qualification of commissioners.

II. The said three commissioners so holding office during good behaviour shall be paid as hereinafter mentioned, and two at least of the said paid commissioners for the time being shall be barristers-at-law of not less than twelve years standing at the time of their respective appointments, and one of such barristers shall be the chief commissioner, and shall be so called and distinguished in his appointment.

Officers of the board.

III. The said commissioners, with the sanction of the commissioners of Her Majesty's treasury, shall from time to time appoint such clerks and messengers as the said commissioners may think fit, and all persons appointed under this provision shall hold their offices during the pleasure of the said commissioners.

Salaries.

IV. There shall be paid to the said paid commissioners, and to the said secretary, inspectors, clerks, and messengers, such salaries not exceeding for the chief commissioner the annual sum of one thousand five hundred pounds, and for each of the other paid commissioners the annual sum of one thousand two hundred pounds, and for the said secretary the annual sum of (*b*) *six hundred pounds*, and for each of the said inspectors the annual sum of eight hundred pounds, as shall be from time to time allowed by the commissioners of Her Majesty's treasury, who may also allow to every commissioner, inspector, and other person appointed for the purposes of this Act such reasonable travelling and other expenses as may be incurred by him in the execution of his office; and the said salaries and expenses, and the

(*b*) See "Charitable Trusts Act, 1860," sec. 22, *post*, p. 68.

incidental expenses of the said board, shall be paid out of any monies which may be from time to time provided by parliament for that purpose: *provided always, that after the thirty-first day of March in the year one thousand eight hundred and fifty-seven, the said annual salary shall be paid to one only of the said commissioners besides the said chief commissioner* (*c*).

No paid commissioner, secretary, or inspector to sit in House of Commons.

V. No paid commissioner, secretary, or inspector to be appointed under this Act shall be capable of sitting in the House of Commons during the tenure of his office.

Style of commissioners, who may sit as a board.

VI. The said commissioners to be appointed under this Act shall be styled "The Charity Commissioners for England and Wales," and may have and use a seal for authenticating documents, and such commissioners shall sit from time to time as a board for carrying this Act into execution; and any two of such commissioners may form a board, and may exercise all or any of the powers conferred on the commissioners or the board by this Act.

Board to frame general minutes.

VII. The said board shall, by general minutes (*d*), from time to time prescribe regulations for their proceedings, and the proceedings of their inspectors, and concerning the form and manner of applications to the said board, and the conditions to be performed by applicants, and for the guidance of applicants in relation thereto, and all such general minutes shall be signed by three of the said commissioners at the least; and copies of all such general minutes shall be laid before both houses of parliament within fourteen days after the making thereof if parliament be sitting, or if parliament be not sitting, then within fourteen days after the next meeting thereof.

(*c*) See "Charitable Trusts Amendment Act, 1855," sec. 2, *post*, p. 43.
(*d*) See "Charitable Trusts Act, 1860," sec. 21, *post*, p. 68.

Minutes of proceedings and orders, &c., to be entered, and copies of entries signed by the secretary to be received in evidence.

VIII. The said board shall cause minutes of their proceedings, and all orders, certificates, and schemes, made or approved by them under this Act, to be entered in books to be provided and kept for such purpose, and all such entries shall be signed by their secretary (*e*), and all copies purporting to be extracted from the books of the said board, and to be certified by their secretary, of any such minutes, orders, certificates, and schemes entered as aforesaid, shall be received as evidence of the proceedings to which such minutes shall relate, and of such orders, certificates, or schemes, and of the making or approval thereof (as the case may require) by the said board, without further proof thereof.

Board to inquire into condition and management of charities.

IX. It shall be lawful for the said board from time to time, as they in their discretion may see fit, to examine and inquire into all or any charities in England or Wales, and the nature and objects, administration, management, and results thereof, and the value, condition, management, and application of the estates, funds, property, and income belonging thereto; and the said board may cause examinations and inquiries in relation to the matters aforesaid to be made and prosecuted by their inspectors, acting together or separately, in such cases and at such times as the said board may think fit; and all such inspectors shall from time to time report their proceedings to the said board (*f*).

Power to require accounts and statements.

X. The said board may require all trustees or persons acting or having any concern in the management or administration of any charity, or the estates, funds, or property thereof, to render to the said board, or to their inspectors, or either of them, accounts and statements in writing in relation to such charity, or the funds, estates, property, income, or monies thereof, or the administra-

(*e*) See "Charitable Trusts Amendment Act, 1855," sec. 5, *post*, p. 44.
(*f*) Extended. See "Charitable Trusts Amendment Act, 1855," sec. 6, *post*, p. 44.

tion, management, and application thereof, and may also require such trustees and persons to return answers in writing to any questions or inquiries addressed to them by the direction of the said board relating to the matters aforesaid (*g*).

Officers having custody of records to furnish copies and extracts, if required by board.

XI. All officers having the custody of enrolments, decrees, reports, records, and other documents relating to or concerning any charity shall furnish such copies or extracts as shall be required by the said board; and every inspector, secretary, and other officer of the said board for the time being employed for the purposes of this Act shall be at liberty, by the authority and under the directions of the board, and subject to such regulations as the board may make in that behalf, to examine and search the registers and records of every court of law and equity, and every ecclesiastical court, and every public registry and office of records, and to take copies of and extracts from any decree or document recorded or registered or deposited therein respectively, for any purpose contemplated by this Act, without fee or other payment in respect thereof.

Inspector may examine witnesses on oath.

XII (*h*). Any inspector acting under the authority of the said board may, by precept under his hand, subject to such regulations as the said board may make in that behalf, require any person, being a trustee of any charity or otherwise acting or having any concern in the management or administration of any charity, or of the estates, funds, or property thereof, or in the receipt or payment of the income or monies thereof, or deriving any income or stipend therefrom, to attend before such inspector for the purpose of being examined by him touching or relating to such charity, or the estates, funds, property, or income thereof, at any time and place mentioned or appointed by such precept, and to bring and produce any

(*g*) See "Charitable Trusts Amendment Act, 1855," sec. 6, *post*, p. 44.
(*h*) Extended. See *Id.* sec. 7, *post*, p. 45.

deed (*i*), paper, writing, instrument, or other document, being in the custody, possession, or power of such person, and relating to such charity, or the estates, funds, property, or income thereof, and may examine upon oath all persons attending in pursuance of such precept, and all persons voluntarily attending before him, and may administer such oath: provided always, that no person shall be obliged to travel in obedience to any such precept more than ten miles from his place of abode.

Persons giving false evidence guilty of a misdemeanor.

XIII. If any person wilfully give false evidence upon any examination under this Act, every person so offending shall be deemed guilty of a misdemeanor.

Person refusing to render accounts, &c., to be deemed guilty of a contempt of court.

XIV. If any person from whom the said board, or any inspector, is authorized to require any account or statement or answers to any questions or inquiries, or whose attendance any inspector is authorized to require, shall refuse or wilfully neglect to render to the said board such account or statement, or to make answers to such questions or inquiries, or to attend in obedience to any lawful precept of any inspector or to give evidence before him, or shall wilfully alter, destroy, withhold, or refuse to produce any deed, paper, writing, instrument, or other document which may be lawfully required to be produced before any inspector or the said board, every person so offending shall be deemed and taken to have been guilty of a contempt of the High Court of Chancery, and shall be liable to be attached and committed by such court on summary application by the commissioners to the same, and shall pay the costs of and attending such contempt as the said court shall direct (*j*).

Saving for persons claiming adversely to charities.

XV (*k*). Provided always, that nothing herein contained shall extend to give to the said board or their inspectors

(*i*) See "Charitable Trusts Act, 1860," sec. 19, *post*, p. 68.
(*j*) See "Charitable Trusts Amendment Act, 1855," sec. 9, *post*, p. 45.
(*k*) See *Id.* sec. 6, *post*, p. 44.

any power of requiring from any person holding or claiming to hold any property whatsoever adversely to any charity, or free or discharged from any charitable trust or charge, any information, or the production of any deed or document whatever in relation to the property so held or claimed adversely, or any charitable trust or charge alleged to affect the same.

Board to entertain applications for their opinion or advice.

XVI. The said board shall receive and consider all applications which may be made to them by any trustee or other person having any concern in the management or administration of any charity, for their opinion, advice, or direction respecting such charity, or the management or administration thereof, or the estate, funds, property, or income thereof, or the application thereof, or any question or dispute relating to the same respectively, and, if they so think fit, may upon any such application give such opinion or advice as they think expedient, subject to any judicial order or direction which may be subsequently made or given by any competent court or judge; and such opinion or advice shall be in writing (*l*), signed by two or more of the said commissioners, and sealed with the seal of the said commission; and every trustee and other person who shall act upon or in accordance with the opinion or advice given by the said board shall in respect of so acting be deemed and taken, so far as respects his own responsibility, to have acted in accordance with his trust; and no such judicial order or direction subsequently made or given by any court or judge shall have any such retrospective effect as to interfere with or impair the indemnity by this Act given to trustees and other persons who have acted upon or in accordance with such opinion or advice of the said board: provided always, that nothing herein contained shall extend to indemnify any trustee or other person for any act done in accordance with the opinion or advice of

Persons acting on advice of board to be indemnified.

(*l*) See "Charitable Trusts Amendment Act, 1855," sec. 4, *post*, p. 44.

the said board, if such trustee or other person have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion or advice.

See Section 62 post

Notice of legal proceedings as to any charity by any person, except the attorney-general, to be given to the board.

XVII. Before any suit, petition, or other proceeding (not being an application in any suit or matter actually pending) for obtaining any relief, order, or direction concerning or relating to any charity, or the estate, funds, property, or income thereof, shall be commenced, presented, or taken, by any person whomsoever, there shall be transmitted by such person to the said board notice in writing of such proposed suit, petition, or proceeding, and such statement, information, and particulars as may be requisite or proper, or may be required from time to time by the said board, for explaining the nature and objects thereof; and the said board, if upon consideration of the circumstances they so think fit, may, by an order or certificate signed by their secretary, authorize or direct any suit, petition, or other proceeding to be commenced, presented, or taken with respect to such charity, either for the objects and in the manner specified or mentioned in such notice, or for such other objects, and in such manner and form, and subject to such stipulations or provisions for securing the charity against liability to any costs or expenses, and to such other stipulations or provisions for the protection or benefit of the charity, as the said board may think proper; and such board, if it seem proper to them, may by such order or certificate as aforesaid require and direct that any proceeding so authorized by them in respect of any charity shall be delayed during such period as shall seem proper to and shall be directed by such board; and every such order or certificate may be in such form and may contain such statements and particulars as such board shall think fit; and (save as herein otherwise provided) no suit, petition, or other proceeding for obtaining any such relief, order, or direction as last aforesaid shall be entertained or proceeded with by the

Courts not to entertain proceedings as to charities, except upon cer-

Court of Chancery, or by any court or judge, except upon and in conformity with an order or certificate of the said board: provided always, that this enactment shall not extend to or affect any such petition or proceeding in which any person shall claim any property or seek any relief adversely to any charity. tificate of the board.

XVIII. Provided always, that it shall be lawful for Her Majesty's attorney-general acting ex officio to make such applications, and take and prosecute such proceedings with respect to any charity, in the Court of Chancery or otherwise, as to him may seem fit, as if this Act had not been passed; and that nothing in this Act contained shall be construed as dispensing with the fiat or allowance of Her Majesty's attorney-general, with respect to any proceeding not being an application under the jurisdiction created by this Act, where such fiat or allowance was necessary before the passing of this Act. Saving for the attorney-general acting ex officio.

XIX. Provided also, that where upon any report of any inspector under this Act or otherwise it appears to the said board that any suit, petition, or other proceeding concerning or relating to any charity, or the estate, funds, property, or income thereof, would be proper or expedient, it shall be lawful for the said board by their order to authorize or direct such suit, petition, or proceeding to be commenced, presented, or taken, and to give such directions in relation thereto as the said board may think proper; and thereupon such suit, petition, or proceeding may be commenced, presented, or taken accordingly, without any such previous notice in writing as hereinbefore mentioned; and the said board, before giving any such opinion, advice, or direction upon any such application as aforesaid, or making any such order or certificate after notice to them as aforesaid, may, where local inquiry appears to them to be requisite, cause such inquiry to be made by one of their inspectors; and the said board Board may, upon the report of an inspector, authorize proceedings, where no notice has been given to them, and may in other cases cause local inquiries by their inspector.

may, in any case where they see fit, before acting upon the report of any inspector, cause such report to be deposited for local inspection, and give notice of the same being so deposited, and consider any statements or objections which may be transmitted to them in relation thereto.

Power for board to certify certain cases to the attorney-general.

XX. In any case in which it shall appear to the said board that the institution of legal proceedings is requisite or desirable with respect to any charity, or the estates, funds, property, or affairs thereof, and that under the circumstances thereof it is desirable that such proceedings should be instituted by the attorney-general, it shall be lawful for the said board, if they so think fit, to certify such case, in writing under the hand of the secretary of the said board, to Her Majesty's attorney-general, together with such statements and particulars (if any) as in the opinion of the said board may be requisite or proper for the explanation of such case; and thereupon the said attorney-general, if upon consideration of the circumstances he think fit, shall institute and prosecute such legal proceedings as he shall consider requisite or proper under the circumstances of such case, by information or petition in the Court of Chancery, or by application to a judge thereof at chambers, or to a district court of bankruptcy, or county court under the jurisdiction given by this Act.

Board may sanction building leases, working mines, doing repairs and improvements;

XXI. If in any case it appear to the trustees or persons for the time being acting in the administration or management of any charity, or the estates or property thereof, that any part of the charity lands or estates may be beneficially let on building, repairing, improving, or other leases, or on leases for working any mine, or that the digging for or raising of stone, clay, gravel, or other minerals, or the cutting of timber, would be for the benefit of the charity, or that it would be for the benefit of such charity that any new road or street should be formed or laid out, or any drains or sewers made through

any part of the charity estates, or that any new building should be erected, or that any existing building should be repaired, altered, rebuilt, or wholly removed, or that any other improvements or alterations in the state or condition of the lands or estates of such charity should be made, it shall be lawful for such trustees or persons to lay before the said board a statement and proposal in relation to any of the matters aforesaid; and it shall be lawful for the said board, if they think that the leases or acts to which the statement and proposal relate (with or without modifications or alterations) would be beneficial to the charity, to make such order under their seal for and in relation to the granting of such leases (*m*), or the doing of any other such acts as aforesaid, and any circumstances connected therewith, as they may think fit, although such leases or acts respectively shall not be authorized or permitted by the trust (*n*); and the said board, by any such order, may authorize the application of any monies or funds belonging to the charity for any of the purposes or acts aforesaid, and, if necessary, may authorize the trustees to raise any sum of money by mortgage of all or any part of the charity estates (*o*); *provided that compulsory provisions be reserved in every such mortgage for the payment of the principal money borrowed by annual instalments, and for the redemption and re-conveyance of the mortgaged estates, within the period of not more than thirty years* (*p*).

and may authorize the application of the charity funds or the raising of money on mortgage for those purposes.

XXII (*q*). It shall be lawful for the board, upon proof to their satisfaction that any schoolmaster or schoolmistress or other officer of any charity has been negligent in performing his or her duties, or that he or she is unfit or incompetent to discharge them properly, either from immoral conduct, age, or any other cause what-

Commissioners to authorize trustees to remove officers.

(*m*) See "Charitable Trusts Amendment Act, 1855," sec. 29, *post*, p. 52.
(*n*) See *Id.* sec. 38, *post*, p. 55.
(*o*) See "Charitable Trusts Act, 1860," sec. 15, *post*, p. 66.
(*p*) See "Charitable Trusts Amendment Act, 1855," sec. 30, *post*, p. 52.
(*q*) See "Charitable Trusts Act, 1860," sec. 2, *post*, p. 60.

soever (*r*), to empower the trustees of such charity to remove such schoolmaster or mistress or other officer, and to charge the salary of his or her successors, or any other portion of the revenues of the charity, with such retiring pension or allowance, if any, in favour of the person so removed, and generally to impose such conditions as to the said board shall appear proper: provided always, that where there shall be any special visitor of the charity, the consent of such visitor, in writing under his hand, shall be necessary in order to such removal.

Board may sanction compromise of claims on behalf of charity.

XXIII. If in any case it appear to the trustees or persons acting in the administration of any charity that any claim or demand or cause of suit against (*s*) any person in relation to such charity may, with advantage to the charity, or should, under the special circumstances of the case, be compromised or adjusted without taking or without continuing any proceedings at law or in equity, such trustees or persons may, or the person against whom such claim, demand, or cause of suit exists or is alleged to exist, may, with the consent of the trustees or persons acting in the administration of such charity, submit to the said board a statement and proposal for such compromise or adjustment; and if it appear to the said board after such inquiry in relation thereto by one of their inspectors, as they may deem requisite, or otherwise, that such proposal, either with or without any modification, is fit and proper, and for the benefit of the charity, it shall be lawful for the said board to make such order for and in relation to such compromise or adjustment as they may think fit; and upon the due performance of the terms and conditions of such compromise or adjustment as aforesaid, such agreement shall be a final bar to all actions, suits, claims, and demands by or on behalf of the charity concerned

(*r*) See "Charitable Trusts Act, 1860," sec. 14, *post*, p. 65.
(*s*) See "Charitable Trusts Amendment Act, 1855," sec. 31, *post*, p. 53.

therein, in respect to the cause of action, suit, or matter in respect to which such compromise or adjustment shall have been made.

Board, under special circumstances, may authorize sale or exchange of charity lands.

XXIV. Upon application to the said board by the trustees or persons acting in the administration of any charity, representing to the said board that, under the special circumstances of any land belonging to the charity, a sale (*t*) or exchange (*u*) of such land can be effected on such terms as to increase the income of the charity, or would otherwise be advantageous to the charity, such board may, if they think fit, inquire into such circumstances, and if after inquiry they are satisfied that the proposed sale or exchange will be advantageous to the charity may authorize the sale or exchange, and give such directions in relation thereto, and for securing the due investment (*x*) of the money arising from any such sale, or by way of equality of exchange for the benefit of the charity, as they may think fit (*y*).

Board may authorize the redemption of rent-charges.

XXV. The said board shall have authority, upon such application as aforesaid, to authorize the sale to the owners of the land charged therewith of any rentcharge, annuity, or other periodical payment charged upon land, and payable to or for the benefit of any charity, or applicable to charitable purposes, upon such terms and conditions as they may deem beneficial to the charity, and to give such directions for securing the due investment of the money arising from such sale for the benefit of the charity, or for securing the due application thereof to such charitable purposes as they may think fit; and in like manner the trustees of any charity, with the consent of the board, may purchase any rentcharge or other yearly payment to which the charity estate is or shall be liable.

(*t*) See "Charitable Trusts Amendment Act, 1855," sec. 29, *post*, p. 52.
(*u*) See *Id.* sec. 32, *post*, p. 53.
(*x*) See *Id.* sects. 35, 36, *post*, p. 54. (*y*) See *Id.* sect. 38, *post*, p. 55.

Leases, sales, &c., authorized by the board to be valid.

XXVI. The leases, sales, exchanges, and other transactions authorized by such board under the powers of this Act shall have the like effect and validity as if they had been authorized or directed by the express terms of the trust affecting the charity (*z*).

Trustees of charities enabled to purchase sites for building from owners under disability, &c., according to the provisions of Lands Clauses Consolidation Act, 1845.

XXVII. Where any land shall be required for the erection or construction of any house or building, with or without garden, playground, or other appurtenances, for the purposes of any charity (*a*) *and the trustees of the charity shall be legally authorized to purchase and hold such land*, but by reason of the disability of any person having an estate or interest in such land, or of any defect in title thereto, a valid and perfect assurance of the same land cannot be made to the trustees of the charity in the ordinary manner, it shall be lawful for the trustees of the charity, with the sanction of the said board (such sanction to be certified under the hand of their secretary), to take and purchase such land according to the provisions of "The Lands Clauses Consolidation Act, 1845;" and for that purpose all the clauses and provisions of the last-mentioned Act with respect to the purchase of lands by agreement, and with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making a title, and also with respect to conveyances of lands, so far as the same clauses and provisions respectively are applicable to the cases contemplated by this provision, shall be incorporated in this Act; and in all cases contemplated by this provision the expression "the Special Act," used in the said clauses and provisions of the said "Lands Clauses Consolidation Act" (*b*), shall be construed to mean this Act; and the expression "the promoters of the undertaking" (*c*), used in the same

(*z*) See "Charitable Trusts Amendment Act, 1855," sec. 38, *post*, p. 55.
(*a*) See *Id.* sec. 41, *post*, p. 56.
(*b*) See "Lands Clauses Consolidation Act," *post*.
(*c*) See *Id.* sec. 2.

clauses and provisions, shall be construed to mean the trustees of the charity in question.

In cases of charities the incomes of which exceed 30*l.*, Master of the Rolls and Vice-chancellors, upon application to them at chambers, to have the same jurisdiction as the Court of Chancery or Lord Chancellor now has upon information, &c.

XXVIII (*d*). Where the appointment or removal of any trustee, or any other relief, order, or direction relating to any charity of which the gross annual income for the time being exceeds thirty pounds, shall be considered desirable, and such appointment, removal, or other relief, order, or direction might now be made or given by the Court of Chancery, in respect either of its ordinary or its special or statutory jurisdiction, or by the Lord Chancellor intrusted with the care and commitment of the custody of lunatics, it shall be lawful for any person authorized in this behalf by the order or certificate of the said board, or for the attorney-general, to make application (without any information, bill, or petition,) to the Master of the Rolls or one of the Vice-chancellors sitting at chambers, for such order, direction, or relief as the nature of the case may require; and the Master of the Rolls or the Vice-chancellor to whom any such application shall be made shall and may proceed upon and dispose of such application in chambers, save where he may think fit otherwise to direct, and shall and may have and exercise thereupon all such jurisdiction, power, and authority, and make such orders and give such directions in relation to the matter of such application, as might now be exercised, made, or given by the Court of Chancery or by the Lord Chancellor intrusted as aforesaid, in a suit regularly instituted, or upon petition, as the case may require; and the Master of the Rolls and Vice-chancellors respectively shall, in relation to such applications as aforesaid, and the proceedings thereon, (subject to any rules which may be made by the Lord Chancellor, with the advice and consent of them or any two of them,) have all such powers of directing matters to be heard in open court, and of ordering what

(*d*) See "Charitable Trusts Act, 1860," sec. 2, *post*, p. 60.

matters shall be heard and investigated by themselves and their chief clerks respectively, and such other powers and authorities as by the Act of the last session of parliament, chapter eighty, are vested in or authorized to be exercised by them at chambers, and the provisions of the said Act applicable to orders made by the Master of the Rolls or any of the Vice-chancellors at chambers shall extend to all orders so made under this Act: provided always, that, save as may be otherwise provided by any rules to be made by the Lord Chancellor, with such advice and consent as aforesaid, the determinations of the Master of the Rolls and Vice-chancellors respectively upon and in relation to such applications as aforesaid shall not be subject to appeal in any case where the gross annual income of the charity does not exceed one hundred pounds: provided also, that it shall be lawful for the Master of the Rolls or any Vice-chancellor, where under the circumstances of any application as aforesaid he may so see fit, to direct that for obtaining the relief, order, or direction sought for by such application an information, bill, or petition, as the case may require, shall be filed or presented and prosecuted as now by law required, and to abstain from further proceeding on such application.

15 & 16 Vict. c. 80.

Provision as to charities within the jurisdiction of the Court of Chancery of the county palatine of Lancaster.

XXIX. The jurisdiction created and given by this Act to the Master of the Rolls and the Vice-chancellors sitting in chambers, upon any application to them respectively as aforesaid, shall extend concurrently to and may be exercised by the Chancellor of the duchy and county palatine of Lancaster, and the Vice-chancellor of the same county palatine respectively for the time being, as to every charity within the jurisdiction of the Court of Chancery of the said county palatine whose gross annual income for the time being exceeds thirty pounds, upon application being made to such Chancellor or Vice-chancellor respectively; and it shall be lawful for the Chancellor of the said duchy and county palatine, with

the concurrence of the Vice-chancellor of the same county palatine, from time to time to make and issue any rules and orders for regulating the modes of proceeding, and the fees to be taken in respect of proceedings under this Act.

Provisions as to charities exceeding 30*l.* per annum to extend to charities in London not exceeding 30*l.*

XXX. Provided always, that the provisions of this Act applicable to any charity the gross annual income whereof exceeds thirty pounds shall extend to any charity established or administered or applicable to or for objects or purposes within the city of London the gross annual income whereof does not exceed thirty pounds, in like manner as if such income exceeded that amount.

Lord Chancellor, with the advice of Master of the Rolls and Vice-chancellors, or two of them, to make general orders.

XXXI. It shall be lawful for the Lord Chancellor, with the advice and consent of the Master of the Rolls and Vice-chancellors, or any two of them, to make and issue general rules and orders for regulating the mode and form of applications at the chambers of the Master of the Rolls and Vice-chancellors respectively under this Act, and the proceedings thereon, and for determining in what cases and under what conditions and restrictions the determinations of the Master of the Rolls and Vice-chancellors respectively upon or in relation to such applications shall be subject to appeal, and the fees and allowances to solicitors of the Court of Chancery, and the fees to be payable in money or by stamps to the officers of the said court in respect of such applications and proceedings thereon; and such rules and orders may from time to time be varied by the like authority, and all such rules and orders shall be deemed general orders of the said court.

District courts of bankruptcy and county courts to have

XXXII (*e*). Where any charity of which the gross annual income for the time being does not exceed *thirty pounds* (*f*) shall be established or administered or

(*e*) See "Charitable Trusts Act, 1860," sec. 2, *post*, p. 60.
(*f*) See *Id.* sec. 11, *post*, p. 64.

jurisdiction in cases of charities the incomes of which do not exceed 30*l.*

be applicable wholly or partially to or for objects or purposes within the district or any two or more of the districts of any district court of bankruptcy, or of any county court or courts holden under the Act of the session holden in the ninth and tenth years of the reign of Her Majesty, chapter ninety-five, and the appointment or removal of any trustee, or any other relief, order, or direction whatsoever concerning such charity, shall be considered desirable, and such appointment or removal, or other relief, order, or direction, might now be made or given by the Court of Chancery in respect either of its ordinary or its special or statutory jurisdiction, or by the Lord Chancellor intrusted with the care and commitment of the custody of lunatics, it shall be lawful for any person authorized in this behalf by the order or certificate of the said board, or for the attorney-general, to make application to such district or county court, or, as the case may be, to any one of such district or county courts, for such order, direction, or relief as the nature of the case may require; and such district or county court shall entertain such application, and shall hear the matter in open court, and shall give such relief, and make such orders and directions in relation to the matter of such application, as might now be made or given by the Court of Chancery or by the Lord Chancellor, intrusted as aforesaid, in a suit regularly instituted, or upon petition, as the case may require; and the clerk of such county court shall transmit a copy of such order or direction to the office in London of the registrar of county courts' judgments, to be there enrolled: provided always, that no judge of any district or county court shall be authorized to vary any decree, order, or direction of the Court of Chancery, or of any judge thereof, or to make or give any order or direction inconsistent or conflicting with any such decree, order, or direction: provided also, that where two or more district or county courts shall have concurrent jurisdiction with respect to any charity under this Act, no application in respect of such charity shall

be made to or entertained by more than one of such district or county courts at the same time.

Deputy sitting for county court judge not to exercise jurisdiction.

XXXIII. The jurisdiction hereby created and conferred on the county courts with respect to any charity shall not be exercised by any deputy or other person who may for the time being be appointed to sit and shall be sitting for any such judge.

Where two or more courts have concurrent jurisdiction, board to direct to which court applications shall be made.

XXXIV. Where two or more district courts of bankruptcy or county courts shall concurrently have jurisdiction under this Act with respect to any charity, it shall be lawful for the said board to order to which of such courts any application with respect to such charity shall be made; and every such order shall be conclusive as to the jurisdiction with respect to the application referred to in such order.

Board may direct cases within the jurisdiction of a district or county court to be taken before a judge of the Court of Chancery in the first instance.

XXXV. It shall be lawful for the said board to direct that any application as to any charity within the jurisdiction of any district court of bankruptcy or county court shall be made before a judge of the Court of Chancery, or as to any charity within the jurisdiction of the Court of Chancery of the county palatine of Lancaster, either before the Chancellor or the Vice-chancellor of the same county palatine, or before a judge of the High Court of Chancery, according to the provisions herein contained applicable to a charity the gross annual income whereof exceeds thirty pounds, and in such case such application shall be made and may be heard and determined accordingly, in like manner as if the gross annual income of such charity exceeded thirty pounds; and upon the production of the order or certificate containing such direction, or of a copy thereof, the application with respect to which such order or certificate shall have been made shall not be entertained or proceeded with by such district or county court.

No order of district or county court for the appointment or removal of trustees or approval of a scheme to be valid unless confirmed by board.

XXXVI. Whenever any order or decision is made by any district court of bankruptcy or county court for the appointment or removal of any trustee of any charity, or approving of any scheme for regulating or directing the administration of any charity, or the estate, funds, property, or income thereof, a copy of every such order or decision shall immediately upon the making thereof be delivered or transmitted by the deputy registrar of such district court or by the clerk of the county court, as the case may be, together with all requisite particulars, to the said board, for the purpose of being considered by them; and no such order or decision shall be valid or effectual until the same shall have been approved by the said board, such approval to be testified by a certificate in writing, signed by the secretary of the said board, and no such approval shall issue from the said board until one calendar month shall have elapsed after the receipt by the board of such copy and particulars.

Board, if dissatisfied with the order of district or county court, may remit the case for reconsideration, or may transfer the matter to a judge of the Court of Chancery.

XXXVII. In case any such order or decision as last aforesaid of any district court of bankruptcy or county court shall not be approved by the said board, it shall be lawful for such board to remit the same for reconsideration and decision by such district or county court, with such remarks and recommendations thereon (if any) as shall seem fit and expedient to such board, or, in the discretion of the board, to order and direct that the subject matter to which such order or decision relates, together with such order or decision, shall be submitted to the consideration and decision of a judge of the Court of Chancery, and in such last-mentioned case no further proceedings shall be had or taken in the district or county court with respect to the matter in question; and in case the order or decision of the district or county court, on the reconsideration of any order or decision so remitted for reconsideration, be disapproved as aforesaid by the said board, such board shall refer such orders and decisions, and the subject matter thereof, to a judge of

the Court of Chancery, or, as to any charity within the jurisdiction of the Court of Chancery of the county palatine of Lancaster, either to the Chancellor or the Vice-chancellor of the same county palatine, or to a judge of the High Court of Chancery; and where any order or decision is referred to a judge of the Court of Chancery, or of the Court of Chancery of the said county palatine of Lancaster, under this provision, such judge shall have and exercise all such jurisdiction, power, and authority in relation thereto as in the case of a charity the gross annual income whereof exceeds thirty pounds, and may make such order in relation to the matter of such order or decision as to him may seem proper.

How orders of district or county court under this Act to be enforced.

XXXVIII. Subject to any orders to be made by the Lord Chancellor as hereinafter mentioned, and to the other provisions of this Act, all proceedings to be taken in any district court of bankruptcy or county court, and all orders and directions to be made or given by any such district court or county court by virtue of the jurisdiction hereby created and conferred on such court, shall respectively be subject to the same rules and regulations, and have the same effect, and be registered, enforced, and executed in the same manner as the other proceedings, orders, judgments, and directions of the same court under its ordinary jurisdiction, and it shall be lawful for any such district court, or for any county court, with the consent of the board, to rescind or vary any order which shall have been previously made by such court, without prejudice to any act or matter in the meantime done under such order; and for executing and putting in force any order to be made by any county court under this Act, every judge of any such court shall and may have and exercise all such powers as by the Act of the session holden in the ninth and tenth years of Her Majesty, chapter ninety-five, are given for enforcing the payment of any debts, damages, or costs under the said Act.

Appeal.

XXXIX. Where any person authorized to make any application under this Act, (other than Her Majesty's attorney-general acting ex officio,) or any other person who may have been made a party to any proceeding upon any application under this Act, is aggrieved by or dissatisfied with any order made by any district court of bankruptcy or county court upon any such application, or any proceeding thereon, he may, within one calendar month after the making of such order, give notice in writing to the said court, and also to the said board, that he is desirous to appeal against the same; and if the said board think it reasonable and proper that such appeal should be entertained, and give a certificate to that effect, such district or county court shall suspend any proceedings upon the order appealed against during such time as the circumstances may require; and the said board, if they so think fit, may require the person giving any such notice of appeal to become bound with two sufficient sureties, to be approved by the deputy registrar of such district court, or by the clerk of the county court, as the case may be, to the treasurers of the said courts respectively, or such other person as the said board may see fit, in such sum as to the said board shall seem reasonable, to pay such costs of the proceedings on the appeal as shall be ordered to be paid by such appellant, and also (if the said board so think fit) to indemnify the charity against the costs and expenses of or attending such appeal; and every bond executed under this provision shall be exempt from stamp duty: provided always, that it shall be lawful for Her Majesty's attorney-general (acting ex officio), at any time within three calendar months after the making of any order by a district court or county court under this Act, to lodge and commence and prosecute an appeal against such order, without giving any such notice or becoming bound as aforesaid, and every such last-mentioned appeal shall thereupon be allowed by the order of such district or county court, and shall

have such other effect as any other appeal under this Act.

Proceedings on appeal.

XL. Where any order allowing an appeal has been made as aforesaid, the person thereby allowed to appeal shall within three calendar months present a petition to the Court of Chancery, setting forth the order appealed against, and the order allowing such appeal, and praying such relief as the case may require; and upon the hearing of such petition the court may confirm, vary, or reverse the order appealed against, or may remit such order to the district court of bankruptcy or county court by which the same was made, with or without any declaration or directions of the Court of Chancery in relation thereto, or may proceed in relation to the charity to which such order relates as in the case of an application under this Act to a judge of the Court of Chancery at chambers, and any judge of such court sitting at chambers or in open court may make or give any such orders or directions in relation to the matter of such order as he may see fit, or the court may make such other order in relation to the matter of any such appeal as to the court may seem just, and as might be made in the case of a suit regularly instituted, or a petition, as the case may require; and in case the party allowed to appeal do not within such three calendar months present such petition of appeal, the order against which such appeal was allowed shall be final; and in case any costs adjudged on any such appeal to be paid by the party allowed to appeal be not paid, such bond as aforesaid may be put in suit, and the money to be recovered on every such bond shall be applied to indemnify the charity estate or the person damnified, or otherwise in such manner as the justice of the case may require, and the court or judge by whom such appeal may have been heard shall think fit.

Bond to prosecute appeal may be put in suit.

No chancery

judge, or district or county court, in proceedings under this Act, to try titles, &c.

Chancery, nor any district court of bankruptcy or county court, shall upon any proceedings under this Act have jurisdiction to try or determine the title at law or in equity to any real or personal property, or any term or interest therein, as between any charity, or the trustee thereof, and any person holding or claiming such real or personal property, term, or interest adversely to such charity, or to try or determine any question as to the existence or extent of any charge or trust.

Notice to be published of application for schemes or appointment or removal of trustees under this Act.

XLII. Before any application shall be made to any judge of the Court of Chancery, or to any district court of bankruptcy or county court, under any of the provisions herein contained for the establishment or alteration of a scheme or the appointment or removal of any trustees or trustee, notice in writing of such intended application shall be given in such form and manner as the said board shall have directed; and if the order be that such notice be affixed to or near the door of any parish or district church, the incumbent and churchwardens of such parish or district are hereby respectively required to allow such notice to be affixed and to remain so affixed during such period, not less than fifteen days, as the said board shall have ordered; and in any case in which the order shall be that such notice shall be affixed to any place, evidence that the same has been so affixed shall be deemed and taken as primâ facie evidence that it has remained affixed during the period prescribed by the board.

By whom applications may be made.

XLIII. Every application to any judge or court under the jurisdiction created or conferred by any of the provisions of this Act, may be made by Her Majesty's attorney-general, or, subject to the provisions aforesaid, by all or any one or more of the trustees or persons administering or claiming to administer, or interested in, the charity which shall be the subject of such application, or any two or more inhabitants of any parish or place

within which the charity is administered or applicable; and it shall be lawful for Her Majesty's attorney-general for the time being, acting ex officio, to make application by petition to the Court of Chancery with respect to any charity under the provisions of the Act passed in the fifty-second year of King George the Third, chapter one hundred and one, or under the provisions of any Act or Acts passed or to be passed authorizing the application to the same court by petition according to the provisions of the said Act.

Attorney-general may petition under 52 Geo. 3, c. 101.

XLIV. For the purposes of determining the jurisdiction under this Act with respect to any charity, or the right to appeal from the determination of a judge of the Court of Chancery, it shall be lawful for the said board to declare, according to such judgment as they may be able to form upon the returns or statements before them in relation to any charity, whether the gross annual income for the time being of such charity does or does not exceed thirty pounds or one hundred pounds, (as the case may require,) and a statement in any certificate or order of the said board that according to such judgment as aforesaid the gross yearly income of any charity does or does not exceed thirty pounds or one hundred pounds shall be sufficient evidence of the amount of the gross annual income of such charity, for the purpose of determining such jurisdiction or right to appeal as aforesaid; and any certificate or order made by the said board under this Act, authorizing any proceeding or application concerning any charity to be taken or made to any district court of bankruptcy or county court or to the Court of Chancery or any judge thereof, shall state that the gross annual income for the time being of such charity does not exceed thirty pounds, or does exceed thirty pounds (as the case may be): provided always, that where any charity, or the trustees thereof, in addition to the principal endowment for its general objects and purposes, shall be possessed of or entitled to

Statement in certificate of board of the amount of income of any charity to be sufficient evidence for determining the jurisdiction or proceedings under this Act.

Proviso as to particular endowments.

any other endowment for any particular or special object or purpose arising out of or in its nature or application connected with the general objects or purposes of such charity, it shall be lawful for the said board, having regard to the circumstances of each such case, and to the object and extent of the proposed application and litigation, to determine whether such endowment for such particular or special object or purpose should, for the purposes of jurisdiction and proceedings under this Act, be considered and treated as forming part of the general endowment of the charity, or as a separate or independent charity, and such board shall frame their certificate or order accordingly.

Lord Chancellor to make orders for regulating proceedings before district and county courts. Judges to regulate proceedings.

XLV. The Lord Chancellor shall make such orders for regulating proceedings by and before the judges of district courts of bankruptcy and county courts under this Act, and for fixing and determining the fees to be taken in respect of such proceedings, as he may see fit; and, subject to such orders, such judges may regulate the proceedings before them respectively so as to render them as summary and inexpensive as conveniently may be.

Reservation of rights and privileges of Church of England with respect to charities.

XLVI. Nothing herein contained shall diminish or detract from any right or privilege which by any rule or practice of the Court of Chancery, or by the construction of law, now subsists for the preference or the exclusive or special benefit of the Church of England, or the members of the same Church, in settling any scheme for the regulation of any charity, or in the appointment or removal of trustees, or generally in the application or management of any charity.

Secretary to be treasurer of charities; such treasurer to be a corporation.

XLVII. The secretary for the time being of the said board shall by virtue of his appointment be the treasurer of public charities; and such treasurer shall, for the purposes of taking, holding, conveying, assigning, transferring, and transmitting real property, including lease-

holds for lives or years, be a corporation sole by the name of "*The Treasurer of Public Charities*," *and by that name shall have perpetual succession*, (*g*) and plead and be impleaded before all courts, justices, and others.

Land holden upon trust for a charity, subject to jurisdiction of Court of Chancery and of judge, may be vested in treasurer.

XLVIII. Where any land, or any term or estate therein, holden upon trust for any charity, shall be vested in any persons other than the persons acting in the administration and application of the rents; or where there shall be no trustees thereof, or the trustees, or any of them, shall be unwilling to act, or it shall be uncertain in whom such land, term or estate, shall be vested, or all or any of the persons in whom such land, term or estate, shall be vested, cannot be found, or shall be under age, lunatic, or of unsound mind, (whether found such by inquisition or not,) or otherwise incapable of acting, or shall be out of the jurisdiction or not amenable to the process of the Court of Chancery, or where by reason of the reduced number of trustees or other causes a valid appointment of new trustees cannot be made, or where by reason of the expenses incident to the appointment of new trustees, and the conveyance or assignment of such land, term or estate, to such new trustees, it shall appear to the Court of Chancery, or to any judge of such court or of any court having jurisdiction with respect to such charity under this Act, desirable so to do, such court or judge may order that such land, term or estate, be vested in such treasurer (*h*), and thereupon the same shall vest in such treasurer and his successors for all the estate and interest holden in trust for the charity as aforesaid, without any conveyance or assurance thereof; but no such vesting order as aforesaid shall be made in respect of any land, or term or estate as aforesaid, holden in trust as aforesaid, vested in a corporation, without the consent of the corporation; and no such vesting order shall take effect in respect of any copyhold land without the consent

Proviso.

(*g*) See "Charitable Trusts Amendment Act, 1855," sec. 15, *post*, p. 48.
(*h*) See *Id.*

of the lord of the manor; and the Court of Chancery, or such judge, may direct such periodical or other payment as such court or judge may think fit to be made to the lord of the manor, in compensation for fines or other profits which would have become due upon death or admittance of tenants.

Orders may be made revesting land, &c., in the trustees of the charity.

XLIX. It shall be lawful for any court or judge by whom respectively any such vesting order may have been made, or for any other court or judge having jurisdiction in the matter, if it shall so seem fit to such court or judge, from time to time to order that all or any part of the land, term or estate, which shall for the time being be vested in the said treasurer by virtue of any such vesting order as aforesaid, shall be devested, and that the same shall be vested in the acting trustees or trustee for the time being of the charity; and such last-mentioned order shall operate to vest such land, term and estate, in the trustees, or trustee therein named without any conveyance or assurance.

Treasurer to be a bare trustee.

L. Subject to the orders and directions of the Court of Chancery or of any such judge, such treasurer shall be deemed a bare trustee, and shall permit the persons acting in the administration of the charity (*i*) to have the possession, management, and control of the trust estates, and the application of the income thereof, as if the same had been vested in them.

Judge may order trustees, &c., holding stock, &c., belonging to a charity subject to his jurisdiction, to transfer same to official trustees.

LI. The secretary for the time being of the said board, and such other public officer or officers (*j*) as the Lord Chancellor shall appoint, shall be official trustees of charitable funds, (*k*) and where trustees or other persons having in their names or in the name of any deceased person of whom they are representatives, in the books of the Bank of England, or of the East India

(*i*) See "Charitable Trusts Amendment Act, 1855," sec. 16, *post*, p. 48.
(*j*) See *Id.* sec. 17, *post*, p. 48. (*k*) See *Id.* sec. 18, *post*, p. 49.

or South Sea Company, or of any other public company, any annuities, stock, or shares, or holding any government or parliamentary or other securities in trust for any charity, shall be desirous to transfer or deposit the same to or with the said official trustees in trust for such charity, or where any person shall be desirous of transferring or depositing as aforesaid any annuities, stocks, shares, or securities for discharging any legacy or charge given or made to or for the benefit of any charity, or where it shall appear to the Court of Chancery, or to any judge of such court, or of any district court of bankruptcy, or county court having jurisdiction (*l*) under this Act, that any annuities, stock, shares, or securities held in trust for any charity ought, for the purpose of security or convenient administration, to be transferred or deposited as aforesaid, it shall be lawful for such court or judge to order the transfer or deposit of such annuities, stock, shares, or securities to or with such official trustees (*m*).

Secretary to keep separate accounts of funds of each charity.

LII. The secretary of the said board shall keep separate accounts of the annuities, stock, shares, and securities belonging to each separate charity, and the said official trustees shall pay the dividends or interest or income thereof to the trustees or persons acting in the administration of such charity, or otherwise dispose thereof, and transfer such annuities, stock, shares, or securities (when occasion shall require), as the Court of Chancery, or any judge of such court, or of any district court of bankruptcy, or county court having jurisdiction under this Act, or other lawful authority, shall direct.

Trustees may deposit deeds, &c., for security in a re-

LIII. It shall be lawful for any trustees or other persons having the custody of any deeds or muniments of or relating to such charity to deposit the same for

(*l*) See "Charitable Trusts Amendment Act, 1855," sec. 12, *post*, p. 46; and sec. 22, *post*, p. 50. See "Charitable Trusts Act, 1860," sec. 2, *post*, p. 60.
(*m*) See "Charitable Trusts Amendment Act, 1855," sec. 25, *post*, p. 50.

pository provided by the board.

security in a repository which may be provided by the said board, subject to any regulations to be made by the said board under this Act.

Power to board to frame schemes for the appropriation of charitable property to varied trusts.

LIV. Where, upon the application of any trustees or other persons concerned in the management or administration of any charity, or interested in the benefits thereof (and after such examination or inquiry as the board may think necessary in relation thereto), or upon any report of an inspector, or information otherwise obtained by the said board under this Act, with relation to any charity, it shall appear to the said board to be desirable to have a new scheme for the application or management of the charity, and such new scheme as contemplated or considered desirable by the board cannot be, or it shall in the opinion of the board be doubtful whether it can be carried into complete effect by the Court of Chancery, or by any district or county court under the jurisdiction created by this Act, or otherwise than by the authority of parliament, it shall be lawful for the said board in every such case provisionally to approve and certify such new scheme in the manner and subject to the regulations hereinafter mentioned.

Notice to be given before approval of schemes, and objections may be submitted for the consideration of the board.

LV. One month at least before any such new scheme shall be so provisionally approved, notice thereof shall be given in such manner as the board may in each case consider proper or expedient for ensuring due publicity, and every such notice shall contain such particulars of the proposed scheme as the said board think fit, and as shall be deemed by the said board sufficient to show the nature of such scheme, and where the nature thereof cannot conveniently be shown in the said notice, such notice shall refer to some convenient place within the parish or district, and to *the office in London of the registrar of county courts judgments*(*n*), where a copy of

(*n*) See "Charitable Trusts Amendment Act, 1855," sec. 43, *post*, p. 56.

the proposed scheme shall be deposited and may be inspected, and every such notice shall require any objections to such scheme to be stated or transmitted to the said board or their secretary within one month from the time when the notice shall have been given.

Board may alter or modify or approve of schemes.

LVI. If after such notice as aforesaid any objections or suggestions shall be made, the board shall consider the same, and may thereupon, if to them it shall seem fit, alter or modify the scheme according to any such objections or suggestions; and after all such objections and suggestions, if any, have been disposed of, or if no such objections or suggestions shall have been made, the board, in case they shall not think fit to refer such scheme to an inspector under the provision next hereinafter contained, may proceed to approve such scheme, and to certify the same in manner hereinafter mentioned.

The matter of schemes may be referred to an inspector for local inquiry.

LVII. Upon the requisition of any person interested in the charity in question (in case the said board after due consideration shall be of opinion that there are sufficient grounds for complying with such requisition), or in any other case, if the said board shall consider it desirable, the matter of any scheme in question may be referred by the said board to one of their inspectors, and such inspector shall thereupon proceed to make a local inquiry and examination into the matter of the scheme in question, and for the purposes of such inquiry, such inspector may hold a sitting or sittings in some convenient place in the parish or one of the parishes of the district to or in which respectively the charity in question is wholly or partially situated or is administered, and may take and receive any evidence and information, and hear and inquire into any objections or questions relating to the scheme or charity in question, and may from time to time adjourn any such sitting, and public notice shall be given by such inspector of every such sitting (except an adjourned sitting) fourteen days at the least before the

holding thereof, in such other mode as in the judgment of the said board shall be sufficient to ensure publicity.

Inspectors to report the result of inquiry to the board.

LVIII. Every inspector to whom any such matter shall be referred shall report in writing to the said board the result of his inquiry, and whether in his opinion the scheme in question should be approved with or without any alteration or modification thereof, and such report shall specify or indicate the alterations (if any) which such inspector shall consider desirable, with the reasons for the same, and also the nature of the objections (if any) which shall have been made to the scheme, and the opinion of the said inspector thereon, and the said board shall consider such report, and if, as the result of such report or after further inquiry, they shall be satisfied therewith, they may proceed to approve the scheme in question either with or without any alteration, and to certify the same in manner hereinafter mentioned.

Schemes when approved to be certified by the board. Copy of such certificate to be deposited in the parish or district, and notice given.

LIX. Every scheme to be approved by the said board shall be certified by them, and for that purpose shall be embodied in a certificate to be made by the said board, and sealed with their seal; and in every case a copy of such certificate shall be deposited in some convenient place within the parish or one of the parishes or the district in which the charity in question shall wholly or partially be situated or administered, and at *the office in London of the registrar of county courts judgments*, (*o*) and a notice shall also be given, in such manner as the board shall direct, which notice shall refer to the certificate so deposited, and shall state the intention of the board to proceed with the scheme thereby certified.

Annual report to be laid before parliament, which

LX. The said board shall in the month of February in every year make a report to Her Majesty of all their proceedings during the preceding year up to the thirty-first

(*o*) See "Charitable Trusts Amendment Act, 1855," sec. 43, *post*, p. 56.

day of December then last, and such report shall, within fourteen days after the making thereof, be laid before both houses of parliament, if parliament be then sitting, or otherwise within fourteen days after the meeting thereof; and in such report the said board shall specially distinguish and set forth in full all the schemes (if any) approved by them under the provisions lastly hereinbefore contained, together with the grounds of such their approval, and the objections (if any) which have been made thereto, and all proceedings had in respect of such objections and the grounds on which any such objections have been over-ruled; and in case it shall be enacted by any Act of parliament that any such scheme or schemes so certified shall be confirmed and take effect, either with or without any alterations or modifications thereof respectively, every such Act shall be deemed a public general Act.

shall set forth all the schemes approved.

LXI. The trustees or persons acting in the administration of every charity shall, in books to be kept by them for that purpose, regularly enter or cause to be entered full and true accounts of all money received and paid respectively on account of such charity,(p) *and on or before the twenty-fifth day of March in every year, or on or before such other day as shall or may be fixed and appointed for that purpose by the said board, shall cause a statement in writing to be made of the income and revenues, whether actually paid or then due, and the actual receipts and expenditure of such charity for the year ending on the thirty-first day of December then next preceding, or on some other convenient day to be fixed and appointed for that purpose by the said board, and also a balance sheet containing a clear statement of the balance of such account, which statement and balance sheet respectively shall be certified under the hand of some one or more of such trustees or persons (and audited by the auditor of such charity, if*

Accounts of trustees of charities to be delivered to the clerks of county courts, clerks of the peace, and to the board.

(p) See "Charitable Trusts Amendment Act, 1855," sec. 44, *post*, p. 56; *Id.* sec. 45, *post*, p. 58.

any there be); and as to every charity whose gross annual income for the time being shall not exceed thirty pounds, every such statement and balance sheet respectively, or a duplicate or true copy thereof respectively, shall be delivered or sent by such trustees or persons free of charge to the clerk of the county court or some one of the county courts (if more than one) to whose jurisdiction such charity may be subject under this Act (in case such charity be subject to the jurisdiction of any county court under this Act), or if such charity be not subject to the jurisdiction of any county court, then to the clerk of the county court for the district or any one of the districts (if more than one) wherein or nearest adjoining whereto such charity is established, or the property thereof (in whole or in part) is situate or administered and distributed; and as to every charity whose gross annual income for the time being shall exceed thirty pounds, every such statement and balance sheet, or a duplicate or true copy thereof respectively (unless the said board shall otherwise direct), shall be delivered or sent free of charge to the clerk of the peace for the county or the division of the county or some one of the counties or divisions of counties (if more than one) in which the charity is established, or the property thereof is wholly or partially situated or administered and distributed; and every such statement and balance sheet, or a duplicate or true copy thereof respectively, shall be kept and registered without fee or reward by the registrar of county courts judgments or the clerk of such county court, and the clerk of the peace of such county or division respectively, and shall be open to the inspection of all persons, at all seasonable hours, on payment of the sum of one shilling to the registrar or clerk for every such inspection; and any person may require and have a copy of any such statement and balance sheet, or of any part thereof, paying therefor to such registrar or clerk after the rate of twopence for every seventy-two words or figures; and a duplicate or copy of every such statement and balance sheet to be made according to the foregoing provision, so certified and audited as aforesaid, shall be

delivered or transmitted, through the post or otherwise, free of charge, by such trustees or other persons, to the said board, on or before the said twenty-fifth day of March in every year, or such other day as may be fixed and appointed by the said board as aforesaid; and the said board may from time to time by any order direct that the statement and balance sheet, or a duplicate or true copy thereof respectively, of the accounts of any charity whose gross annual income exceeds thirty pounds shall be delivered or sent to the clerk of the county court in the same manner as if the income of such charity did not exceed thirty pounds; and the said board may make and give such further and other orders and directions in relation to the delivery and publication of such accounts, and the form thereof, as they may think fit, which directions and orders shall be obligatory on and obeyed by all such trustees and persons as aforesaid.

Exemptions from the operation of Act.

LXII. This Act shall not extend to the Universities of Oxford, Cambridge, London, or Durham, or any college or hall in the said Universities of Oxford, Cambridge, and Durham, or to any cathedral or collegiate church, or to any building registered as a place of meeting for religious worship with the registrar-general of births, deaths, or marriages in England and Wales, and bonâ fide used as a place of meeting for religious worship; nor shall this Act, for the period of two years from the passing thereof, extend or be in any manner applied to charities or institutions, the funds or income of which are applicable exclusively for the benefit of persons of the Roman Catholic persuasion (*q*), and which are under the superintendence or control of persons of that persuasion, nor shall this Act extend or be applied to the commissioners of Queen Anne's Bounty, or to the British Museum, or to any friendly or benefit society, or savings bank, or any institution,

(*q*) See "Charitable Trusts Amendment Act, 1855," sec. 47, *post*, p. 58.

establishment, or society for religious or other charitable purposes, or to the auxiliary or branch associations connected therewith, wholly maintained by voluntary contributions, or any bookselling or publishing business carried on by or under the direction of any society wholly or partially exempted from this Act, so far as such business is or shall be carried on by means of voluntary contributions only, or the capital or stock of such business; and where any charity is maintained partly by voluntary subscriptions and partly by income arising from any endowment, the powers and provisions of the Act shall, with respect to such charity, extend and apply to the income from endowment only, to the exclusion of voluntary subscriptions, and the application thereof; and no donation or bequest unto or in trust for any such charity as last aforesaid, of which no special application or appropriation shall be directed or declared by the donor or testator, and which may legally be applied by the governing or managing body of such charity as income in aid of the voluntary subscriptions, shall be subject to the jurisdiction or control of the said board, or the powers or provisions of this Act; and no portion of any such donation or bequest as last aforesaid, or of any voluntary subscription, which is now or shall or may from time to time be set apart or appropriated and invested by the governing or managing body of the charity, for the purpose of being held and applied or expended for or to some defined and specific object or purpose connected with such charity, in pursuance of any rule or resolution made or adopted by the governing or managing body of such charity, or of any donation or bequest in aid of any fund so set apart or appropriated for any such object or purpose as aforesaid, shall be subject to the jurisdiction or control of the said board or the powers or provisions of this Act; and nothing in this Act shall subject the funds or property of any missionary or other similar society, or the missionaries, teachers, or officers of such society, or of any branch

Provisions as to charities supported partly by voluntary subscriptions.

thereof, which funds or property shall not be within the limits of England or Wales, to the jurisdiction of the said board: provided always, that the said exemption shall not extend to any cathedral, collegiate, chapter, or other schools (*r*).

Exempted charities may petition commissioners to have benefit of Act.

LXIII. It shall be lawful for any of the charities exempted from the operation of this Act, by order or resolution duly made in conformity with the constitution or rules of such charity (and which in that case only shall be binding), to apply by petition to the commissioners to have the benefit of this Act either generally or as to any of the provisions herein contained; and such petition shall be under the seal of such charity if incorporated, and if not, then under the hands of the major part of the trustees and governing body of such charity; and in such case it shall be lawful for the commissioners, if they shall think fit, to make an order in conformity with such application, and such charity shall thenceforth be entitled to and be bound by all the provisions of this Act, if admitted generally thereto, or by such of the enactments thereof as shall be mentioned and specified in such order of the commissioners, but in either case in the same manner as if such charity had not been exempted from this Act, or such exemption had not extended to the enactments specified in such order.

Disputes among members of exempted charities may be referred to arbitration of commissioners.

LXIV. Provided also, that if any question or dispute shall arise among the members of any charity exempted (*s*) from the operation of this Act in relation to any office, or the fitness or disqualification of any trustee or officer, or his election or removal, or generally in relation to the management of the charity, it shall be lawful for two-thirds of the members present at any special meeting, duly convened by notice for the purpose in the same manner in which meetings of such charity are by the

(*r*) See "Charitable Trusts Amendment Act, 1855," sec. 49, *post*, p. 59.
(*s*) See *Id.* sec. 46, *post*, p. 58.

rules thereof appointed to be held and convened, to refer such question or dispute to the arbitration of the commissioners, who shall accept such reference and act therein as arbitrators, and their award shall be final, and may be made a rule of Her Majesty's High Court of Chancery.

Legal estate of lands now vested in municipal corporations on charitable trusts to be vested in trustees. 5 & 6 W. 4, c. 76.

LXV. The legal estate in all lands which at the time of the passing of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter seventy-six, was vested in the body corporate of any borough which became subject to the provisions of the said Act, or in any one or more of the members of such body corporate, in his or their corporate capacity, solely or together with any person or persons elected solely by such body corporate, or solely by any particular number, class, or description of members of such body corporate, in whole or in part in trust or for the benefit of any charitable uses or trusts whatsoever, and which legal estate shall not have been since duly conveyed or assured to and vested in the trustees appointed by the Lord High Chancellor under the provisions of the said Act, or such of them as shall be surviving and continuing trustees, or otherwise lawfully conveyed, aliened, or disposed of by such body corporate or member or members thereof, shall from and immediately after the passing of this Act, and without any actual conveyance, assignment, or other assurance thereof, be vested in the trustees so appointed, or such of them as shall be surviving and continuing trustees under such appointment as aforesaid, according to the respective estates and interest therein, and subject to such and the same charges and incumbrances and upon such and the same trusts as the same were respectively subject to previously to such vesting; and in every case, upon the death, resignation, or removal of any of the trustees, and upon any appointment of any new trustee or trustees respectively, the legal estate in the same lands, and in all other lands subject to any

such charitable uses or trusts which may for the time being be vested in the trustees or any of them, or in any persons or the heirs or devisees of any person who may have died, resigned, or been removed, shall vest in the persons who after such death, resignation, or removal, and such appointment of such new trustee or trustees respectively, shall continue or be the trustees for the time being, without any conveyance or assurance whatsoever.

Interpretation of terms.

LXVI. In the construction of this Act, except where the context or other provisions of the Act may require a different construction, the expression "Court of Chancery" shall mean and include the Master of the Rolls and every judge of the Court of Chancery in England; the expression "Lord Chancellor" shall mean and include the Lord Chancellor of Great Britain and the Lord Keeper and Commissioners of the Great Seal of Great Britain for the time being; the expressions "District Court of Bankruptcy" and "District Court" shall mean and include every district court of bankruptcy established or to be established under the Act of the fifth and sixth years of the reign of Her present Majesty, chapter twenty-two, or under any other Act or Acts passed or to be passed for the alteration or amendment or the extension of the same Act, or for the establishment of any district court or courts of bankruptcy in England or Wales, and every commissioner or judge of every such district court; the expression "County Court" shall mean and include every county court holden or established or to be holden or established under the Act of the ninth and tenth years of Her Majesty, chapter ninety-five, or any Act or Acts passed or to be passed for the alteration or extension of the same Act, and every judge of any such court; the expression "Charity(*t*)" shall mean every endowed foundation and institution taking or to take effect in England or Wales, and coming within

(*t*) See "Charitable Trusts Amendment Act, 1855," sec. 48, *post*, p. 59.

the meaning, purview, or interpretation of the statute of the forty-third year of Queen Elizabeth, chapter four (*u*), or as to which, or the administration of the revenues or property whereof, the Court of Chancery has or may exercise jurisdiction; the expression "Trustee" of any charity shall mean and include every person and corporation seised or possessed of or entitled to any real or personal estate, or any interest therein, in trust for or for the benefit of such charity, or all or any of the objects or purposes thereof, and every member of any such corporation; and the expression "the Board" shall mean the said charity commissioners sitting as a board under this Act; and the expression "Endowment" shall mean and include all lands and real estate whatsoever, of any tenure, and any charge thereon, or interest therein, and all stocks, funds, monies, securities, investments, and personal estate whatsoever, which shall for the time being belong to or be held in trust for any charity, or for all or any of the objects or purposes thereof; and the expression "Land" shall extend to and include manors, messuages, buildings, tenements, and hereditaments, corporeal and incorporeal, of every tenure and description.

Extent of Act. LXVII. This Act shall not extend to Scotland or Ireland.

Short title. LXVIII. This Act may be cited as "The Charitable Trusts Act, 1853."

(*u*) See Statute of "Charitable Uses," 43 Eliz. c. 4, *post*.

18 & 19 VICT. Cap. 124.

An Act to Amend the Charitable Trusts Act, 1853.

[*14th August*, 1855.]

WHEREAS it is expedient to extend and amend the Charitable Trusts Act, 1853, as hereinafter provided: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:—

16 & 17 Vict. c. 137, and this Act to be construed together.

I. "The Charitable Trusts Act, 1853," hereinafter called "the principal Act," and this Act, shall be construed together as one Act, and any provisions of the principal Act inconsistent with this Act are hereby repealed.

Provision as to the salary of one of the commissioners repealed.

II. So much of the principal Act (section IV.) as provides that after the thirty-first day of March, one thousand eight hundred and fifty-seven, an annual salary shall be paid to one only of the commissioners besides the chief commissioner is hereby repealed.

Power to appoint additional inspectors.

III. It shall be lawful for Her Majesty and her successors, under the royal sign manual, to appoint additional inspectors (not exceeding three in number) for the purposes of this Act and the Charitable Trusts Act, 1853, and such additional inspectors shall hold office during pleasure, and shall be possessed of the same powers, authorities, and jurisdiction, and be entitled to the same privileges and emoluments, as the inspectors appointed under the said former Act of one thousand eight hundred and fifty-three.

The acts of the board, how to be authenticated.

IV. Every act of the board may be sufficiently authenticated by the seal of the commissioners, and the signature of their secretary, or in his absence of the chief clerk.

Entries in and extracts from the books of the board, how to be authenticated.

V. All orders, certificates, schemes, and other documents issued under the seal of the board shall be deemed and taken to be the originals, and copies thereof shall be entered in the books of the board, and all such entries may be sufficiently certified by the signature of the secretary, or in his absence of the chief clerk: Every order, certificate, scheme, and other document purporting to be sealed with the seal of the board shall be received in evidence without further proof; and any writing purporting to be a copy extracted from the said books, and to be certified as aforesaid, shall be received in evidence in like manner.

The powers of the commissioners and inspectors to inquire into charities extended.

VI. The board, or any commissioner or inspector, such inspector acting under the authority of the board, may require written accounts and statements and answers to inquiries relating to any charity, or the property or income thereof, to be rendered or made to them respectively by all or any of the following persons; that is to say,

Trustees or persons acting or concerned in the administration of the charity, its property or income, or in the receipt or payment of any monies thereof:

Agents of any such trustees or persons:

Depositaries of any funds or monies of the charity:

Persons in the beneficial receipt of any funds thereof or of any income or stipend therefrom:

Persons having the possession or control of any documents concerning the charity or any property thereof:

And the board or the commissioner or inspector may require the persons rendering or making any such account, statement, or answer to verify the same by oath or otherwise, and may administer such oath: provided always, that

nothing herein contained shall extend to give to the said board or their inspectors any power of requiring from any person holding or claiming to hold any property whatsoever adversely to any charity, or free or discharged from any charitable trust or charge, any information, or the production of any deed or document whatever, in relation to the property so held or claimed adversely, or any charitable trust or charge alleged to effect the same.

Power to require trustees and others to attend and be examined.

VII. The board, or any commissioner or inspector acting as aforesaid, may require all or any such trustees and persons as aforesaid to attend before them respectively at such times and places as may be reasonably appointed, for the purpose of being examined in relation to the charity, and to answer such questions as may be proposed to them, and to produce upon such examination any documents in their custody or power relating to the charity or the property thereof, and may examine upon oath or otherwise all such persons and all persons voluntarily attending, and may administer such oath: provided always, that no person shall be obliged to travel in obedience to any such requisition more than ten miles from his place of abode.

Precepts or orders for the preceding purposes, how to be made.

VIII. All requisitions made under the foregoing authorities shall be made respectively by the order of the board, or by precept, under the hand of the commissioner or inspector making the same.

Persons not complying with requisitions, &c., to be deemed guilty of a contempt of the Court of Chancery.

IX. Any person refusing or wilfully neglecting to comply with any such requisition, or with any order of the board, made under the provisions of this Act or the principal Act, or destroying or withholding any document required to be produced or transmitted by him, shall be taken to be guilty of a contempt of the High Court of Chancery, and shall be liable to be attached and committed by such court, on summary application by the commissioners to the same court or to any judge thereof,

and shall pay such costs attending such contempt as the said court or judge shall direct: provided always, that the court may at any time discharge, on such terms as it may deem just, any person attached or committed on any such application, or on any application made under section fourteen of the principal Act.

Power to apportion parochial charities after division of parishes.

X. Where any parish or ecclesiastical district entitled to the benefit of a charity has or shall have been divided into separate parishes or ecclesiastical districts, and no apportionment of charities originally applicable to the parish or district so divided shall have been made by parliament or other competent authority, the board, in respect of all charities the gross annual income whereof does not for the time being exceed thirty pounds, may apportion the benefit of the charity between each new parish or district, or any portion thereof taken from the parish or district originally entitled to the whole benefit, and the remainder of such last-mentioned parish or district, in such manner and such proportions as upon a consideration of the purposes of the charity, the population of each parish or district, and other circumstances, they may think fit, and may also apportion the principal endowments between such parishes or districts, if it be thought fit, and may appoint separate trustees of any part of the endowments.

Evidence as to annual income of any charity not exceeding 30*l.*

XI. The certificate of the board, that according to their judgment the gross yearly income of any charity does not for the time being exceed thirty pounds, shall be sufficient evidence of the amount of such annual income for the purpose of determining the jurisdiction under the foregoing provision.

The official trustees of charitable

XII (*a*). Any court or judge having jurisdiction to order the transfer of stock in the public funds, or stock

(*a*) See "Charitable Trusts Act, 1860," sec. 2, *post*, p. 60; and see *Id.* sec. 12, *post*, p. 64.

or shares of any public company, to the official trustees of charitable funds, shall have power also to authorize such trustees to call for a transfer of and to transfer such stock or shares, and may also order the payment to the same trustees of any principal monies of any charity, under the same circumstances in which the transfer of stock to them may now be ordered.

funds may be empowered to call for transfers to them of stock, &c.

XIII. No order for apportioning the benefits of any charity shall be made by the board until after such public notices shall have been given of the proposal to make the same as the board may consider expedient for insuring publicity in each parish or district in which the charity is or ought to be applied, or among all persons interested therein, nor until after the expiration of one month from the publication of such notice; and every such notice shall contain (so far as conveniently may be) sufficient particulars of the proposed order to show the objects thereof, and shall prescribe a time within which any objections thereto may be stated or transmitted to the board.

Notices to be given of certain orders of the board.

XIV. All objections which may be made to any proposed order shall be considered by the board, who may suspend the making thereof for further inquiry, or may modify the same, as may be found expedient; and a copy of every such order when made shall, in the case of any local charity, be deposited for the space of one month in some convenient place within the parish or one of the parishes or the district in which the charity is applicable, and also be open to inspection at the office of the commissioners, and such publicity shall be given thereto among all persons interested in the charity as the board shall consider expedient; or, if the charity be not local, then a copy of such order shall be open to inspection at the office of the commissioners, and public notice thereof shall be given in such manner as to the board shall seem fit, and in cases where there is a special visitor, notice shall be given to him.

Proceedings upon the receipt of objections or suggestions.

The official trustee of charity lands constituted.

XV. The secretary for the time being of the board shall be a corporation sole by the name of "The Official Trustee of Charity Lands," for taking and holding charity lands, and by that name (instead of the name of "Treasurer of Public Charities") shall have perpetual succession; and all land, or estates or interests in land, now vested in the "Treasurer of Public Charities" by that name shall become, upon the passing of this Act, and by virtue thereof, vested in like manner and upon the same trusts in "The Official Trustee of Charity Lands," and all provisions of the principal Act which have reference to the treasurer of public charities shall operate as if the name of the "Official Trustee of Charity Lands" had been used therein instead of the name of "Treasurer of Public Charities."

Power to acting trustees to grant leases.

XVI. The acting trustees of every charity, or the majority of them, provided that such majority do not consist of less than three persons, shall have at law and in equity power to grant all such leases or tenancies of land belonging thereto, and vested in the official trustee of charity lands, as they would have power to grant in the due administration of the charity if the same land were legally vested in themselves; and all covenants, conditions, and remedies contained in or incident to any lease or tenancy so granted shall be enforceable by and against the trustees or persons acting in the administration of the charity for the time being, and their alienees or assigns, in like manner as if such lands had been legally vested in the trustees granting such lease or tenancy at the time of the execution thereof, and had legally remained in or had devolved to such trustees or administrators for the time being, their alienees or assigns, subject to the same lease or tenancy (*b*).

Appointments of official trus-

XVII. The Lord Chancellor may from time to time by

(*b*) See "Charitable Trusts Act, 1860," sec. 16, *post*, p. 67.

writing under his hand appoint any person to be, jointly with the secretary for the time being of the said board, the official trustees of charitable funds, and remove any such trustees, and every such appointment or removal shall be published in the London Gazette. tees of charitable funds regulated.

XVIII. The present official trustees of charitable funds, and their successors, to be so appointed, shall have perpetual succession by the name of "The Official Trustees of Charitable Funds," and may hold by that name stock in the public funds, and stock and shares of any public company, securities, and monies, which shall respectively devolve to their successors, the official trustees of charitable funds for the time being, without transfer or assignment. Such trustees to have perpetual succession, and may hold funds in that name.

XIX. All stock in the public funds vested in the joint names of Henry Morgan Vane, Thomas Hare, and Walker Skirrow, esquires, the present official trustees of charitable funds, shall upon the passing of this Act be transferred by the governor and company of the Bank of England from their names to the account of the official trustees of charitable funds. Funds to vest in the official trustees for the time being.

XX. The official trustees of charitable funds shall, for the purposes of their trust, keep a banking account in their official name in the books of the governor and company of the Bank of England, and the secretary of the board shall keep separate accounts of the monies held upon such account, and belonging to each separate charity. The official trustees to keep banking account.

XXI. All orders for payment of any money held upon such banking account shall be signed by one at least of the official trustees of charitable funds, not being the secretary of the board, and also by the secretary, and shall be countersigned by one of the commissioners, or shall be otherwise signed or authenticated in such Mode of drawing on the banking account.

manner as the Lord Chancellor shall from time to time by order under his hand direct; and such orders shall be a sufficient authority to the bank paying the same for all such payments.

Trustees may transfer stock to official trustees.

XXII. Any trustee or other person may, on obtaining an order of the board for the purpose, transfer any stock or pay any money to the official trustees of charitable funds in trust for any charity.

As to disposal of principal monies paid to them.

XXIII. All principal monies belonging to any charity directed to be paid to the official trustees of charitable funds shall be paid to their account at the bank, and, subject to any order of the court or judge or of the board by which respectively the payment shall have been authorized, shall be forthwith invested in the public funds in the names of the official trustees of charitable funds, for the benefit of the charity to which they shall belong.

All dividends and interest due to the official trustees of charitable funds to be placed to their banking account.

XXIV. The dividends arising from all stock in the public funds standing in the name of the official trustees of charitable funds shall from time to time be received by the governor and company of the Bank of England, under the authority of this Act, for the credit of the said official trustees, and shall be placed to their banking account accordingly; and all dividends and interest arising from any other stock, shares, or securities standing in the name of or held by the official trustees of charitable funds shall be paid only to the governor and company of the Bank of England for the account of the same trustees; and the said trustees shall from time to time execute to the said governor and company all such powers as shall be found necessary for enabling them to receive and give effectual discharges for the last-mentioned dividends and interest.

For the regu-

XXV. No transfer of any stock, shares, or securities

shall be made to the official trustees of charitable funds, nor shall any money, other than the dividends or interest of any such stock, shares, or securities as aforesaid, be paid to their account, except in pursuance of an order of the Court of Chancery, or of some judge thereof, or of a district court of bankruptcy or county court, or of the board; and no transfer of any such stock, shares, or securities shall be made by the official trustees, except under the order of such court or judge, or under the order of the board signed by two commissioners, or authenticated in such manner as the Lord Chancellor shall from time to time by any order under his hand direct; and no transfer to or by the official trustees shall be permitted by the governor and company of the Bank of England or any other company contrary to this provision.

Regulation of transfers and payments to or by the official trustees.

XXVI. Copies of all orders made by any court or judge for any transfer, deposit, or payment of stock, shares, securities, or monies to or by the official trustees of charitable funds shall be forthwith transmitted to the board by the parties obtaining such orders.

Copies of orders affecting the account of the official trustees to be sent to the board.

XXVII. Every order made under the principal Act or this Act, requiring or authorizing the transfer, payment, or deposit of any stock, shares, securities, or monies to or with the trustees of any charity or the official trustees of charitable funds, or conferring a right to call for or to make such transfer, shall be a complete indemnity to the governor and company of the Bank of England and all companies and persons for any act done pursuant to such order; and the said governor and company and other companies and persons shall be required to give effect or to conform to every such order, and it shall not be necessary for them to inquire concerning the propriety of such order, or the jurisdiction of the court or judge or the board to make the same. (*c*)

Indemnity to the bank and others.

(*c*) Ses "Charitable Trusts Act, 1860," sec. 23, *post*, p. 69.

Dividends on stock in name of official trustees to be carried to account free from income tax.

XXVIII. All dividends arising from any stock in the public funds standing in the name of the official trustees of charitable funds, and which shall be certified by the board to the governor and company of the Bank of England to be exempt from the property or income tax, shall be paid or carried to the banking account of the official trustees without any deduction of such tax; and all dividends arising from any stock in the public funds standing in any other names or name, and which the board shall certify to the governor and company of the Bank of England to be subject only to charitable trusts, and to be exempt from such tax, shall be paid without any deduction thereof.

Restrictions of charges and leases of charity estates.

XXIX. It shall not be lawful for the trustees or persons acting in the administration of any charity to make or grant, otherwise than with the express authority of parliament, under any Act already passed or which may hereafter be passed, or of a court or judge of competent jurisdiction, or according to a scheme legally established, or with the approval of the board, any sale, mortgage, or charge of the charity estate, or any lease thereof in reversion after more than three years of any existing term, or for any term of life, or in consideration wholly or in part of any fine, or for any term of years exceeding twenty-one years.

Sinking fund to be provided for paying off mortgages in lieu of provision in mortgage deeds.

XXX. So much of section twenty-one of the principal Act as requires a compulsory provision to be inserted in every mortgage for the payment of the principal money borrowed by annual instalments, and for the redemption and reconveyance of the mortgaged estates within the period of not more than thirty years, is hereby repealed; but the board authorizing any mortgage to be made of any charity estate shall make such provisions, by the same or any other order, as to them may seem necessary, for directing the trustees or persons administering the charity to discharge the principal debt or any part thereof

by such yearly or other instalments within thirty years from the date of the security as to the said board may seem fit, or to form an accumulation or sinking fund out of the income of the charity for discharging the principal debt or any portion thereof within the same period, and shall give directions as to the investment and accumulation of such fund, and the trustees for the time being, or persons administering the charity, shall carry such order into effect.

Extension of power of board as to compromise of claims.

XXXI. The twenty-third section of the principal Act shall extend to authorize a compromise or adjustment of any claim, demand, or cause of suit against any charity, or the trustees or administrators thereof, and the order of the board in relation thereto shall have the like effect as in the case of any compromise or adjustment for which provision is made by the said section.

Board may authorize payment for equality of exchange or partition.

XXXII. The board may authorize the application of any funds belonging to any charity in payments for equality of exchange or partition, or in payment of any expenses incident thereto, or may authorize the trustees to raise any money for such purposes by mortgage of any land acquired on such exchange or partition, or belonging to the charity.

Power to ascertain lands charged with rents to charities.

XXXIII. Where there shall be uncertainty as to the specific part of any lands out of which any rent, annuity, or other periodical payment, not exceeding the yearly sum of ten pounds, charged upon some part of the same lands, for the benefit of a charity, shall be payable, it shall be lawful for the board, upon the application of the trustees or persons acting in the administration of the charity and with the consent of the persons interested, according to the aforesaid definition of "persons interested," in the same lands, to determine by their order the land charged with such rent, annuity, or other periodical payment, which shall thenceforth stand charged

with such rent, annuity, or periodical payment accordingly, to the exoneration of the residue of such lands therefrom.

Expenses of exchanges and partitions, and determining application of charges.

XXXIV. The expenses incident to the application for and procuring of any such order of exchange or partition, or order determining the land charged with any rent, annuity, or periodical payment, shall be paid by the trustees or administrators of the charity, or by the other parties to such transactions, or by both, as the board may direct.

Incorporated charities and trustees for charities may re-invest in land.

XXXV. Any incorporated charity, or the trustees of any charity, whether incorporated or not, may, with the consent of the board, invest money arising from any sale of land belonging to the charity, or received by way of equality of exchange or partition, in the purchase of land, and may hold such land, or any land acquired by way of exchange or partition, for the benefit of such charity, without any licence in mortmain.

Order of board for investments to be carried into effect, and cost to be raised.

XXXVI. All orders of the board for the investment of money coming to any charity, or the trustees thereof on any sale, exchange, or partition, shall be carried into effect by the trustees or persons administering the charity; and all monies which the board shall order to be provided out of any income or property of a charity for the payment of the costs of any such transaction shall be provided or raised by the trustees or administrators of the charity, and applied accordingly.

Board may direct official trustees to convey lands, &c.

XXXVII. It shall be lawful for the board to authorize or order and direct the official trustee of charity lands and the official trustees of charitable funds respectively to convey lands, and to assign, transfer, and pay over stocks, funds, monies, and securities, as the board shall think expedient.

Leases, &c., to be valid, notwithstanding disabling Acts.

XXXVIII. All leases, sales, exchanges, partitions, and transactions authorized by the board under the principal Act or this Act shall be valid and effectual, notwithstanding the Act of the thirteenth year of the reign of Queen Elizabeth, chapter ten, the Acts of the fourteenth year of the same Queen, chapters eleven and fourteen, the Acts of the eighteenth year of the same Queen, chapters six and eleven, the Act of the thirty-ninth year of the same Queen, chapter five, and the Act of the twenty-first year of the reign of King James the First, chapter one, or any disabling Act applicable to the charity the estates whereof shall be the subject of any such transaction.

Board may approve schemes for letting charitable property.

XXXIX. It shall be lawful for the board to prepare, and under their seal to approve of, any scheme for the letting of the property or any part of the property of any charity; and all leases granted by any trustees or persons acting in the management of any charity, pursuant to or in conformity with such scheme, shall be valid.

Power to refer bills of costs in charity matters to taxation.

XL. The board may order the bill of costs or charges claimed by any attorney or solicitor on account of business conducted or transacted by him on behalf of any charity, or the trustees thereof, to be examined and taxed by the taxing masters of the Court of Chancery, or by the proper taxing officers of any of the superior courts at Westminster, who shall proceed to examine and tax the same bill accordingly; and if the same shall be reduced upon such taxation by the amount of one-sixth part or more of the amount thereof, the costs of the taxation shall be paid by such attorney or solicitor, but otherwise out of the funds of the charity by the trustees thereof; and the board may, after being satisfied as to any bill that it contains exorbitant charges, order any such bill to be so taxed, notwithstanding that the same may have been paid by the trustees of the charity at any period not more than six calendar months previously to such order; and

any amount taxed off any such paid bill shall be a debt due from the attorney or solicitor to the trustees of the charity, and shall be forthwith paid by him to such trustees accordingly.

Construction of sect. 27 of 16 & 17 Vict. c. 137.

XLI. Section twenty-seven of "The Charitable Trusts Act, 1853," shall be construed and operate as if the words "and the trustees of the charity shall be legally authorized to purchase and hold such land" had been omitted therefrom; and incorporated trustees of any charity shall be competent to purchase and hold lands for the purposes mentioned in the same section without licence in mortmain.

Deeds, &c., relating to charities may be enrolled at the office, and copies to be evidence.

XLII. Any deed, will, or document relating to any charity may be enrolled by the board in books to be provided and kept by them for that purpose at their office, and a copy of any such deed, will, or document made from such books, and certified under the hand of the secretary or one of the commissioners, shall be received as evidence of the contents of the same deed, will, or document.

Construction of sects. 55 and 59 of 16 & 17 Vict. c. 137.

XLIII. The fifty-fifth and fifty-ninth sections of the principal Act shall be construed and operate as if the words "the office of the board" had been inserted therein in the place of the words "the office in London of the registrar of county courts judgments."

Amendment of sect. 61 of 16 & 17 Vict. c. 137, and other provision made as to the annual returns of accounts by trustees of charities.

XLIV. Section sixty-one of "The Charitable Trusts Act, 1853," except so much thereof as enacts that the trustees or persons acting in the administration of every charity shall, in books to be kept by them for that purpose, regularly enter or cause to be entered full and true accounts of all money received and paid respectively on account of such charity, shall be repealed as to all accounts which such trustees or administrators shall not have been bound to render before the passing of this Act;

and the trustees or administrators of every charity shall, on or before the twenty-fifth day of March, one thousand eight hundred and fifty-six, prepare and make out and transmit to the board an account of the endowments then belonging to the charity, showing in the case of realty not in hand the manner in which the same is let or occupied, and in the case of personalty the existing investment or employment thereof, and in what names such investments are made; and such trustees or administrators shall also on or before the twenty-fifth day of March next after the acquisition of any endowment not included in the foregoing account prepare and make out in like manner, and transmit to the board, a similar account of such last-mentioned endowment, and in case of any alienation, or charge, or transfer of any real or personal estate of the charity, shall on or before the twenty-fifth day of March then next following transmit to the board an account of such alienation, charge, or transfer, and such trustees or administrators shall also, on or before the twenty-fifth day of March in every year, or such other day as may be fixed for that purpose by the board, or as may have been already fixed for rendering the accounts thereof required by the principal Act, prepare and make out the following accounts in relation thereto; (that is to say,)

(1.) An account of the gross income arising from the endowment, or which ought to have arisen therefrom during the year ending on the thirty-first day of December then last, or on such other day as may have been appointed for this purpose by the board:

(2.) An account of all balances in hand at the commencement of the year, and of all monies received during the same year on account of the charity:

(3.) An account for the same period of all payments:

(4.) An account of all monies owing to or from the charity, so far as conveniently may be:

which accounts shall be certified under the hand of one

or more of the said trustees or administrators, and shall be audited by the auditor of the charity, if any; and the said trustees or administrators shall, within fourteen days after the day appointed for making out such accounts, deliver or transmit a copy thereof to the commissioners at their office in London, and in the case of parochial charities shall deliver another copy thereof to the churchwarden or churchwardens of the parish or parishes with which the objects of such charities are identified, who shall present the same at the next general meeting of the vestry of such parishes, and insert a copy thereof in the minutes of the vestry book; and every such copy shall be open to the inspection of all persons at all seasonable hours, subject to such regulations as to the said board may seem fit; and any person may require a copy of every such account or of any part thereof, on paying therefor after the rate of twopence for every seventy-two words or figures.

Board may make orders as to delivery and publication of account by trustees, &c.

XLV. The board may from time to time make such orders as they may think fit in relation to the delivery or transmission of the said accounts, and the forms of such accounts, and such orders shall be executed by all trustees and persons from whom the accounts to which they may relate are required.

Application of sect. 64 of 16 & 17 Vict. c. 137.

XLVI. The sixty-fourth section of the principal Act shall apply as well to members of any charity within the operation of that Act as to members of any charity exempted from the operation thereof.

Acts not to apply to Roman Catholic charities until 1st Sept. 1856. (*d*)

XLVII. Neither this Act nor the principal Act shall, until the first day of September, one thousand eight hundred and fifty-six, extend or be in any manner applied to charities or institutions the funds or income of which are applicable exclusively for the benefit of persons of

(*d*) Roman Catholic charities became subject to the provisions of the Charitable Trusts Acts, by effluxion of time, on 1st September, 1859.

the Roman Catholic persuasion, and which are under the superintendence and control of persons of that persuasion, nor shall anything in this Act extend to any of the cases which by the sixty-second section of the principal Act are excepted from the operation thereof (*e*).

As to the term "Charity."

XLVIII. In the construction of the principal Act and this Act the word "Charity" shall include every institution in England or Wales endowed for charitable purposes, but shall not include any charity or institution expressly exempted from the operation of the Act of 1853, and words applying to any person or individual shall apply also to a corporation, whether sole or aggregate.

Act not to extend to Eton or Winchester.

XLIX. Nothing in this Act or in the principal Act contained shall extend to the colleges of Eton and Winchester, or either of them.

Short title.

L. This Act may be cited as "The Charitable Trusts Amendment Act, 1855."

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23 & 24 VICT. CAP. 136.

An Act to amend the Law relating to the Administration of Endowed Charities.

[28*th August*, 1860.]

WHEREAS it is expedient to provide increased and inexpensive facilities for the administration of endowed charities: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

The Charitable Trusts Acts to

I. "The Charitable Trusts Act, 1853," and "The

(*e*) See "Roman Catholic Charities Act, 1860," *post*, p. 74.

be construed with this Act.

Charitable Trusts Amendment Act, 1855," and this Act, shall be construed together as one Act, and any provisions of the said former Acts inconsistent with this Act are hereby repealed.

Certain administrative powers to be exercisable by the charity commissioners.

II. The board of charity commissioners for England and Wales, subject to the restrictions and rights of appeal hereinafter provided, shall have power from time to time, upon the application of any person or persons who, under the forty-third section of "The Charitable Trusts Act, 1853," might be authorized to apply to any judge or court for the like purposes, to make such effectual orders as may now be made by any judge of the Court of Chancery sitting at chambers, or by any county court or district court of bankruptcy, for the appointment or removal of trustees of any charity, or for the removal of any schoolmaster or mistress or other officer thereof, or for or relating to the assurance, transfer, payment, or vesting of any real or personal estate belonging thereto, or entitling the official trustees of charitable funds, or any other trustees, to call for a transfer of and to transfer any stock belonging to such estate, or for the establishment of any scheme for the administration of any such charity.

Board to notify to trustees of charity their intention of exercising jurisdiction.

III. The said board, previously to making any order under the jurisdiction vested in them by this Act, shall notify to the trustees or administrators (if any) of the charity to be affected thereby their intention of exercising such jurisdiction, by notice in writing, to be delivered to them, or sent to them by the post at their last known place of abode in Great Britain or Ireland.

The powers to be exercisable over no charities of which the gross income shall exceed 50*l.* with-

IV. The said board shall not make any order, under the jurisdiction vested in them by this Act, with respect to any charity of which the gross annual income, exclusively of the yearly value of any buildings or land used wholly for the purposes thereof, and not yielding any

pecuniary income, shall amount to fifty pounds or upwards, except upon the application of the trustees or persons acting in the administration of the charity, or a majority of them, to be made to the said board in writing under their hands if they shall be unincorporated, or under their common seal if they shall be incorporated, and the board shall not make any order removing any trustee on the ground only of his religious belief. out application of trustees.

V. The said board also shall not exercise the jurisdiction hereby vested in them in any case which, by reason of its contentious character, or of any special questions of law or of fact which it may involve, or for other reasons, they may consider more fit to be adjudicated on by any of the judicial courts. The board shall not exercise jurisdiction over contentious cases.

VI. No order appointing or removing a trustee, or establishing a scheme for the administration of any charity, shall be made by the said board before the expiration of one calendar month after public notice of the proposal to make such order shall have been given, as they may consider most expedient and effectual for ensuring the publicity thereof, in each parish or district in which the charity, if of a local character, shall be applicable, or among all persons interested therein; and no order removing a trustee or schoolmaster or mistress or other officer of a charity who shall have any known place of residence in Great Britain or Ireland, and who shall not be consenting to be discharged, shall be made before the expiration of one calendar month after notice of the proposal to make such order shall have also been delivered to him or her, or sent by the post or otherwise to such his or her place of residence, and until after sufficient hearing of the matter before the said board, or some member thereof, or one of their inspectors; and every notice hereby required shall contain (so far as conveniently may be) sufficient particulars of the objects of the proposed order, and shall prescribe a reasonable Notices to be given of certain orders, and objections or suggestions to be received.

time within which any objections thereto or suggestions thereon may be made or transmitted to the board; and the said board shall receive and consider all such objections and suggestions, and may withhold, suspend, or modify their proposed order, as they shall thereupon, or in the result of further inquiry, or otherwise, think expedient.

Publication of definitive orders.

VII. A copy of every such order when made shall, in the case of any local charity, be deposited for the space of one calendar month in some convenient place within the parish or one of the parishes or in the district in which the charity shall be applicable, and shall be open to public inspection there at all reasonable hours during the same period; and a copy also of every such order relating to any charity, whether local or general, shall be kept open to public inspection at all reasonable hours, at the office of the commissioners, during a like period of one calendar month; and in each case effectual publicity shall be given to the making of the order by such means as the board shall consider most expedient for that purpose.

Power to appeal against orders of board.

VIII. The attorney-general, or any person authorized by him or by the said board, in the case of any charity, whatever may be the yearly income of its endowments, and any trustee or person acting in the administration of or interested in any charity of which the gross yearly income to be calculated in manner aforesaid shall exceed fifty pounds, or any two inhabitants of any parish or district in which the same shall be specially applicable, may within three calendar months next after the definitive publication of any order of the said board appointing or removing a trustee or trustees, or for or relating to the assurance, transfer, payment, or vesting of any real or personal estate, or establishing a scheme for the administration of the charity, present a petition to the High Court of Chancery in a summary way, appealing

against such order, and praying such relief as the case may require; and any schoolmaster or schoolmistress or other officer removed by the order of the board, without the concurrence of the trustees or persons acting in the administration of the charity, or a majority of them, and without the approval of a special visitor, if any, of the charity, may, within two calendar months (next after his or her removal), appeal in like manner against the order of removal; and the court, upon or before the hearing of any such petition of appeal as aforesaid or at any stage of the proceedings, may require, if it shall think fit, from the said board, their reasons for making the order appealed against, or for any part of such order, and may remit the same to the board for reconsideration, with or without any declaration in relation thereto, or may make any substitutive or other order in relation to the matter of the appeal, as it shall think just; and the court may make any order respecting the costs, charges, or expenses incident to the appeal, and may also, before hearing or proceeding with the same, require from any appellant, other than the attorney-general, proper security for such costs, charges, and expenses as may be eventually payable by him; but no such petition of appeal shall be presented by any person, other than the attorney-general, before the expiration of twenty-one days after written notice, under the hand of such appellant, of his or her intention to present such petition, shall have been delivered to the said board at their office.

Who may be the respondent on appeals.

IX. The attorney-general, if he shall think fit, or any person authorized by him or by the said board, may appear as the respondent upon any such appeal, and the court may make any order respecting the costs, charges, and expenses of the attorney-general or other defendant.

Powers to be applicable to

X. The jurisdiction vested by this Act in the said board shall be exercisable with reference to charities

charities vested in corporations, &c.

vested in any corporation sole or aggregate, who, either solely or jointly with any other person or persons, shall also be the recipients of the benefit thereof.

Jurisdiction of the district courts of bankruptcy and county courts enlarged.

XI. The jurisdiction vested by the Charitable Trust Act, 1853, in the district courts of bankruptcy and county courts, over charities not possessing a larger gross yearly income than thirty pounds, shall be exercisable by the said courts respectively for the like purposes and under the like provisions over charities of which the gross yearly income for the time being, to be calculated in manner aforesaid, shall not exceed fifty pounds, in the same manner as if the last-mentioned limit to the jurisdiction of the said courts had been fixed by the said former Act.

Official trustees of charitable funds may be empowered to receive arrears of dividends.

XII. Any court or judge, or the said board, having jurisdiction to authorize the official trustees of charitable funds to call for a transfer of and to transfer any annuities, stock, or securities, may empower them also to receive and recover, in trust for the charity to which the same shall belong, all dividends, interest, and income accrued from any such annuities, stock, or securities respectively, and which shall for the time being be in arrear.

Power for magistrates to give possession of school buildings and property held over by officers or recipients of charities.

XIII. Where any schoolmaster or mistress or other officer, or any recipient of the benefit of a charity, being in possession by virtue of his or her office, or as such recipient, of any house, buildings, land, or property of the charity, shall have been removed from or shall cease to hold such his or her office, or his or her place as such recipient, but he or she, or any person claiming under him or her, shall refuse or neglect to relinquish the possession of such house, buildings, land, or property within one calendar month next thereafter, to his or her successor, or to the trustees or persons acting in the administration of the charity, or as they shall direct, it

shall be lawful for any two or more justices of the peace acting for the district, division, or place in which such house, buildings, land, or property shall be situate, in petty sessions assembled, and they are hereby required, on the complaint of the said trustees or administrators, and on the production of an order of the said board certifying such school master or mistress or other officer or recipient to have been duly removed from or to have ceased to hold his or her office or place, (which order under the seal of the said commissioners shall be conclusive evidence of the facts thereby certified, and of the jurisdiction of the said commissioners to make such order for all the purposes of this enactment, and shall afford a complete indemnity to all persons acting thereunder,) to issue a warrant under the hands and seals of such justices to any constables or peace officers of the same district, division, or place, commanding them, within a period to be thereby appointed, not being less than ten or more than twenty-one clear days thereafter, to enter into the premises, and deliver possession thereof to the said trustees or administrators, or their nominee or agent, and to remove therefrom such former school master or mistress, or other officer or recipient, and all persons claiming in his or her right, as fully and effectually, and subject to the same provisions, as nearly as the case will permit, as justices of the peace are empowered to give possession of any properties to the landlord or his agent upon the determination of the tenancy thereof, under an Act (*a*) passed in the first and second years of the reign of Her Majesty, chapter seventy-four, for facilitating the recovery of possession of tenements after the determination of the tenancy.

Masters and mistresses of endowed schools to be removable.

XIV. Every school master and mistress appointed after the date of this Act shall be removable from his or her office, after reasonable notice by the trustees or persons

(*a*) See Act, *post*, p. 261.

acting in the administration of the charity, as they shall think expedient in the interests thereof, so nevertheless that the removal by virtue only of this provision of a master or mistress who would be otherwise irremovable from his or her office shall be determined on by all or a majority of such trustees or administrators assembled at a meeting convened by due notice, delivered or sent by the post to all such trustees or administrators who shall have any known place of residence in Great Britain or Ireland, by the space of not less than twenty-eight days previously, for the special purpose of considering and determining on the question of such removal, and of which intended meeting a notice shall also be delivered or sent in like manner to the master or mistress by the same previous space, and so also that the resolution of the meeting for the removal of any such last-mentioned master or mistress shall be forthwith certified under the hands of the trustees or persons acting as aforesaid who shall have concurred therein, or under the hand of the chairman of the meeting, and shall within seven days next thereafter be transmitted to the said board for their approval, and the same shall not take effect unless or until the same shall have been approved by the said board, who may also, if they so think fit, fix the time or any reasonable conditions at or under which the same shall come into operation; if also there shall be any special visitor of the charity who shall be resident in Great Britain or Ireland, and free from incapacity, no removal of any such last-mentioned master or mistress shall be made under the authority only of the preceding provision without the written consent of such visitor: provided always, that this section shall not apply to any endowed grammar school.

Sect. 21 of 16 & 17 Vict. c. 137, extended.

XV. The power vested in the said board by the twenty-first section of "The Charitable Trusts Act, 1853," of authorizing the application of monies belonging to any charity, or to be raised on the security of the properties

thereof, to the improvement of such properties, shall extend to authorize the application of any like monies to any other purpose or object which the board shall consider to be beneficial to the charity or the estate or objects thereof, and which shall not be inconsistent with the trusts or intentions of the foundation.

A majority of trustees to have legal power of dealing with the charity estates.

XVI. A majority of two-thirds of the trustees of any charity assembled at a meeting of their body duly constituted, and having power to determine on any sale, exchange, partition, mortgage, lease, or other disposition of any property of the charity, shall also have a legal power, on behalf of themselves and their co-trustees, and also of the official trustee of charity lands, where his concurrence would be otherwise required, to do, enter into, and execute all such acts, deeds, contracts, and assurances as shall be requisite for carrying any such sale, exchange, partition, mortgage, lease, or disposition into legal effect, and all such acts, deeds, contracts, or assurances shall have the same legal effect as if the same were respectively done, entered into, or executed by all the acting trustees for the time being, and by the said official trustee.

Official trustee not to be accountable for loss unless occasioned by his own neglect.

XVII. No official trustee of charitable funds, appointed under or in pursuance of the first or secondly recited Act, shall be chargeable with or accountable for any loss or misapplication of the said charitable funds, or the dividends, interest, or income thereof, unless the same shall have been occasioned by or through his own wilful neglect or default.

Accounts to be laid before parliament.

XVIII. The official trustees of charitable funds shall lay before parliament annually, on or before the fourteenth day of February, or as soon as practicable after parliament shall be sitting, an account of the total amount of the capital stock, shares, and securities transferred to them in the year ending the thirty-first day of

December preceding, and of the total amount of monies, other than dividends or interest, paid to them or to their account during the same period, and of the investment thereof, and of the capital stock, shares, and securities sold or re-transferred by them during the same period, and of the aggregate amount of the capital stock, shares, funds, and securities, and the balance of cash, held by them on such preceding thirty-first day of December.

Power to require the transmission of documents belonging to charities.

XIX. The board may require any person having the custody or control of any deed or document in which any charity or charities shall be solely interested to transmit the same to the office of the said commissioners for examination; and where such deed or document shall not be held by any person entitled as a trustee or otherwise to the custody thereof, the board may either retain the same, for the security thereof, in the repository provided by them under the sixty-third section of "The Charitable Trusts Act, 1853," or, as they may think most advantageous to the charity, may thereupon, or at any time thereafter, return or issue the same to the trustees or persons acting in the administration of the charity, for the purposes thereof.

Orders to be enforceable as under former Acts.

XX. All orders made by the said board under the provisions of this Act shall be enforceable by the same means, and shall be subject to the same provisions, as are applicable under the Charitable Trusts Act, 1853, and the Charitable Trusts Amendment Act, 1855, respectively, to any orders of the said board made thereunder.

Board to make minutes.

XXI. The said board shall from time to time make such minutes as shall be required relative to the institution and conduct of their proceedings under the jurisdiction created by this Act.

Salary of the secretary.

XXII. There shall be paid to the secretary for the time being of the said commissioners, in consideration of the

increase and extent of his official duties, such a salary, not exceeding the annual sum of eight hundred pounds, in lieu of the salary payable to him under the firstly-cited Act, as shall from time to time be allowed by the commissioners of Her Majesty's treasury.

Indemnity to the Bank of England and others.

XXIII. Every order made under this Act under which any stock, shares, securities, or monies shall be transferred or paid to or deposited with the trustees of any charity, or the official trustees of charitable funds, shall afford a complete indemnity to the governor and company of the Bank of England, and to all companies and persons by whom respectively any such transfer, payment, or deposit shall be permitted or made, for permitting or making the same, and the said governor and company and other companies and persons shall be required to give effect or to conform to such order, and it shall not be necessary for them to inquire concerning the propriety of the same order, or the jurisdiction under which the same shall purport to be made.

Commissioners, &c., exempted from serving on juries.

XXIV. Every commissioner, secretary, and inspector acting under or employed for the purposes of the said Acts shall be exempt from serving on juries while he shall be so acting or employed.

Short title.

XXV. This Act may be cited for all purposes by the short title of "The Charitable Trusts Act, 1860."

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25 & 26 VICT. CAP. 112.

An Act for establishing the Jurisdiction of the Charity Commissioners in certain Cases.

[*7th August*, 1862.]

WHEREAS by the Acts relating to the charity commissioners for England and Wales authority has been

given to the commissioners to make orders for various purposes in charity cases upon summary application, and particularly in relation to the appointment and removal of trustees, and the sale, exchange, leasing, and improvement of the property of charities: and whereas in various private Acts of parliament and decrees and orders of the High Court of Chancery relating to charities such powers and authorities are often given or reserved, with directions that the same shall be exercised by the said court, or with its sanction or approbation, and doubts are entertained whether in such cases the authority given to the charity commissioners can be validly exercised: be it therefore enacted and declared by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

No provision in any Act of parliament or decree relating to any charity under any order of the Court of Chancery, to exclude any jurisdiction which might otherwise be exercised by the charity commissioners.

I. No provision contained in any such Act of parliament or decree or order as aforesaid for the appointment or removal of trustees of any charity, or for or relating to the sale, exchange, leasing, disposal, or improvement of any property, by or under the order or with the approval of the Court of Chancery, shall (in the absence of any express direction to the contrary, to be contained in any future Act of parliament, order, or decree), exclude or impair any jurisdiction or authority which might otherwise be properly exercised for the like purposes by the charity commissioners for England and Wales.

19 & 20 VICT. CAP. 76.

An Act to continue for a limited Time the Exemption of certain Charities from the Operation of the Charitable Trusts Acts.

[29*th July*, 1856.]

WHEREAS by the "Charitable Trusts Act," 1853, it was provided, that such Act should not for the period of two years from the passing thereof extend or be in any manner applied to charities or institutions the funds or income of which were applicable exclusively for the benefit of persons of the Roman Catholic persuasion, and which were under the superintendence or control of persons of that persuasion: And whereas by the "Charitable Trusts Amendment Act, 1855," such charities or institutions as aforesaid were exempted in like manner from the operation of the said Amendment Act, and the exemption so extended was continued until the first day of September one thousand eight hundred and fifty-six: And whereas it is expedient that such exemption should be continued as herein-after mentioned: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

16 & 17 Vict. c. 137.

18 & 19 Vict. c. 124.

I. The said Acts shall not, until the first day of September, one thousand eight hundred and fifty-seven, extend or be in any manner applied to the charities or institutions aforesaid.

Exemption continued until 1st Sept. 1857.

20 & 21 VICT. CAP. 76.

An Act further to continue for a limited Time the Exemption of certain Charities from the Operation of the Charitable Trusts Acts.

[*25th August*, 1857.]

16 & 17 Vict. c. 137.

WHEREAS by "The Charitable Trusts Act, 1853," it was provided that that Act should not, for the period of two years from the passing thereof, extend or be in any manner applied to charities or institutions the funds or income of which were applicable exclusively for the benefit of persons of the Roman Catholic persuasion, and which were under the superintendence or control of persons of that persuasion: And whereas

18 & 19 Vict. c. 124.

by "The Charitable Trusts Amendment Act, 1855," such charities or institutions as aforesaid were exempted in like manner from the operation of the said Amendment Act, and the exemption so extended was continued until the first day of September, one thousand eight hundred and fifty-six, and has since been extended to the first day of September, one thousand eight hundred

19 & 20 Vict. c. 76.

and fifty-seven: And whereas it is expedient that such exemption should be continued as herein-after mentioned: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Exemption continued until 1st Sept. 1858.

I. That the said Acts shall not, until the first day of September, one thousand eight hundred and fifty-eight, extend or be in any manner applied to the charities or institutions aforesaid.

21 & 22 VICT. CAP. 51.

An Act further to continue the Exemption of certain Charities from the Operation of the Charitable Trusts Acts.

[23*rd July*, 1858.]

WHEREAS by "The Charitable Trusts Act, 1853," it was provided, that that Act should not, for the period of two years from the passing thereof, extend or be in any manner applied to charities or institutions the funds or income of which were applicable exclusively for the benefit of persons of the Roman Catholic persuasion, and which were under the superintendence or control of persons of that persuasion: And whereas by "The Charitable Trusts Amendment Act, 1855," such charities or institutions as aforesaid were exempted in like manner from the operation of the said Amendment Act, and the exemption so extended was continued until the first day of September, one thousand eight hundred and fifty-six, and has since been extended to the first day of September, one thousand eight hundred and fifty-eight: And whereas it is expedient that such exemption should be continued as herein-after mentioned: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

16 & 17 Vict. c. 137.

18 & 19 Vict. c. 124.

20 & 21 Vict. c. 76.

I. The said Acts shall not, until the first day of September, one thousand eight hundred and fifty-nine, extend or be in any manner applied to the charities or institutions aforesaid.

Exemption continued until 1st Sept. 1859. (*a*)

(*a*) Roman Catholic charities became subject to the provisions of the Charitable Trusts Acts by effluxion of time, 1st September, 1859.

23 & 24 VICT. CAP. 134.

An Act to Amend the Law Regarding Roman Catholic Charities.

[28*th August*, 1860.]

WHEREAS it is expedient that the laws concerning charities relating to or connected with the Roman Catholic religion in England or Wales should be amended in the particulars hereinafter provided for: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and the Commons, in this present parliament assembled, and by the authority of the same, as follows:

Charities for lawful purposes not to be invalidated by the addition of unlawful trust, but the property may be apportioned, and the whole applied to lawful purposes.

I. No existing or future gift or disposition of real or personal estate upon any lawful charitable trust for the exclusive benefit of persons professing the Roman Catholic religion shall be invalidated by reason only that the same estate has been or shall be also subjected to any trust or provision deemed to be superstitious, or otherwise prohibited by the laws affecting persons professing the same religion, but in every such case it shall be lawful for the High Court of Chancery, or any judge thereof sitting at chambers, in exercise of the jurisdiction created by the Charitable Trusts Act, 1853, upon the application of Her Majesty's attorney-general, or of any person authorised for this purpose by the certificate of the Board of Charity Commissioners for England and Wales, or for the said board upon the application of the person or persons acting in the administration of such real or personal estate, or of a majority of such persons, to apportion the same estate, or the annual income or benefit thereof, so that a proportion thereof, to be fixed by such court or judge, or by the said board, as the case may require, may be exclusively subject to the

lawful charitable trusts declared by the donor or settlor, and that the residue thereof may become subject to such lawful charitable trusts for the benefit of persons professing the Roman Catholic religion, to take effect in lieu of such superstitious or prohibited trusts as the said court or judge, or the said board, may consider under the circumstances to be most just; and also that it shall be lawful for the court or judge, or board, making any such apportionment by the same or any other order or orders to establish any scheme for giving effect thereto, and to appoint trustees for the administration of the several portions of such real and personal estate, according to the trusts established of the same proportions respectively, and to vest the estate to be so apportioned in the trustees so to be appointed.

No proceedings to be instituted as to dealings with Roman Catholic charities prior to 2 & 3 W. 4, c. 115.

II. No proceedings at law or in equity shall be brought or instituted on account or in respect of any dealings, transactions, matters, or things with or concerning any real or personal estate subject to any use, trust, gift, foundation, or disposition for any charity relating to or connected with the Roman Catholic religion which took place prior to the passing of the Act of the second and third years of the reign of King William the Fourth, chapter one hundred and fifteen (*a*): provided that nothing herein contained shall extend to sanction or exempt from such proceedings as aforesaid the fraudulent misapplication or conversion of any such real or personal estate to any private use or purpose not being charitable.

Certain deeds for Roman Catholic charities not to be void if enrolled within twelve months from passing of Act.

III. No deed or other assurance for any charity relating to or connected with the Roman Catholic religion made subsequently to the passing of the Act passed in the ninth year of the reign of King George the

(*a*) "An Act for the better securing the charitable donations and bequests of His Majesty's subjects in Great Britain professing the Roman Catholic religion."

Second, intituled "An Act to restrain the Disposition of Lands whereby the same become inalienable," and before the passing of this Act, shall be void or voidable by reason of the same not having been made, perfected, or
9 Geo. 2, c. 36. enrolled in the manner directed by the first-named Act, or otherwise, under the provisions of the said Act, if such deed or assurance has been or shall be, within twelve months after the passing of this Act, enrolled in the High Court of Chancery: provided that every deed or assurance for any such charity as aforesaid coming within the provisions of the Act passed in the ninth year of the
9 Geo. 4, c. 85. reign of King George the Fourth, intituled "An Act for remedying a Defect in the Titles of Lands purchased for Charitable Purposes," shall have the benefit thereof notwithstanding anything herein contained.

Expense of enrolment, how to be defrayed.

IV. The expense of the enrolment of any deed under the third section of this Act shall be defrayed out of the property subject to the charity to which the same may relate.

The trusts of charities in the absence of settlements may be ascertained from the usage.

V. Where any real or personal estate subject to any use, trust, gift, foundation, or disposition for any charity relating to or connected with the Roman Catholic religion, shall have been applied upon any charitable trusts relating to or connected with the same religion during any continuous period of twenty years, but the original trusts of such property shall not be ascertained by means of any written document, the consistent usage of the last preceding twenty years, or of the last period of twenty years during which any consistent usage in the application of such property shall have prevailed, shall be deemed to afford conclusive evidence of the trusts on which the same property shall have been settled.

The Act not to prejudice past or pending proceedings or

VI. Nothing in this Act contained shall extend to give effect to any use, trust, gift, foundation, or disposition heretofore made which has been already avoided in any

proceeding at law or in equity, or to prejudice any suit at law or in equity commenced before the passing of this Act, or to affect any property held or enjoyed beneficially by any person or persons at the time of the passing of this Act adversely to any such use, trust, gift, foundation, or disposition. adverse possession.

VII. Nothing in this Act contained shall be taken to repeal or in any way alter any provisions of an Act passed in the tenth year of His late Majesty King George the Fourth, intituled "An Act for the relief of His Majesty's Roman Catholic Subjects," respecting the suppression or prohibition of the religious orders or societies of the Church of Rome bound by monastic or religious vows. Nothing in this Act to repeal provisions of 10 Geo. 4, c. 7.

VIII. In the construction of this Act, except where the context or other provisions of this Act shall require a different construction, the expression "Charity" herein contained shall be construed to mean and include the same matters and things as the like expression means and includes in the "Charitable Trusts Act, 1853." Interpretation of "Charity."

IX. This Act may for all purposes be cited as "The Roman Catholic Charities Act." Short title.

X. This Act shall be confined in its operation to England and Wales. Extent of Act.

PART II.

CHARITABLE USES	(1601) 43 Eliz. c. 4.
APPRENTICES	(1609) 7 James I. c. 3, s. 2 and 4.
MORTMAIN	(1736) 9 Geo. II. c. 36.
,,	(1828) 9 Geo. IV. c. 85.
,, (Conveyance of Land for Charitable Uses)	(1861) 24 Vict. c. 9.
,, ,, ,,	(1862) 25 Vict. c. 17.
,, ,, ,,	(1863) 26 & 27 Vict. c. 106.
,, ,, ,,	(1864) 27 Vict. c. 13.
,, ,, ,,	(1866) 29 & 30 Vict. c. 57.
,, (Companies Act, 1862)	25 & 26 Vict. c. 89, s. 1, Part I., 6 and 21.
LAND TAX (Table of Acts).	
LEGACY DUTY (Table of Acts and Duties).	
,, (Exemptions from)	(1799) 39 Geo. III. c. 73, s. 1.
ASSESSED TAXES (Window Duty)	(1808) 48 Geo. III. c. 55, Cases II. III. IV.
,, (Inhabited House Duty)	(1851) 14 & 15 Vict. c. 36, s. 1, 2, and 4.
,, (Property and Income Tax)	(1842) 5 & 6 Vict. c. 35, s. 61 and 88.
,, ,, ,,	(1860) 23 Vict. c. 14, s. 10.
STAMP DUTIES	(1852) 15 & 16 Vict. c. 55, s. 13.
FIRE INSURANCE	(1782) 22 Geo. III. c. 48, s. 2.
REGISTERING AND SECURING CHARITABLE DONATONS	(1812) 52 Geo. III. c. 102.
CHURCH BUILDING	(1803) 43 Geo. III. c. 108.
,,	(1818) 58 Geo. III. c. 45, s. 33, 36, 45, and 46.
,,	(1819) 59 Geo. III. c. 134, s. 37.
,,	(1822) 3 Geo. IV. c. 72, s. 1, 11, 15.
,,	(1838) 1 & 2 Vict. c. 107, s. 9.
,,	(1840) 3 & 4 Vict. c. 60, s. 19.
,,	(1845) 8 & 9 Vict. c. 70, s. 19 and 22.
EXCHANGES (of Lands subject to Charitable Purposes)	(1821) 1 & 2 Geo. IV. c. 92.
,, ,, ,,	(1845) 8 & 9 Vict. c. 118, s. 147, and 149 to 151.
,, ,, ,,	(1846) 9 & 10 Vict. c. 70, s. 9 to 11.
,, ,, ,,	(1847) 10 & 11 Vict. c. 111, s. 4 and 6.

EXCHANGES (OF LANDS SUBJECT TO CHARITABLE PURPOSES)	(1848) 11 & 12 VICT. c. 99. s. 13 and 14.
,, ,, ,,	(1849) 12 & 13 VICT. c. 83. s. 7 and 11.
,, ,, ,,	(1852) 15 & 16 VICT. c. 79, s. 17, 21, 29, 31 and 32.
,, ,, ,,	(1854) 17 & 18 VICT. c. 97, s. 1 to 5.
,, ,, ,,	(1857) 20 & 21 VICT. c. 31, s. 4 to 11.
,, ,, ,,	(1859) 22 & 23 VICT. c. 43, s. 10 to 12.
,, ,, ,,	(1862) 25 & 26 VICT. c. 108.
COPYHOLD ACT, 1858 (COMPULSORY ENFRANCHISEMENT)	(1858) 21 & 22 VICT. c. 94, s. 15.
LIMITATION OF ACTIONS	(1833) 3 & 4 WM. IV. c. 27.
MUNICIPAL CORPORATIONS ACT	(1835) 5 & 6 WM. IV. c. 76, s. 71.
,, ,, (AMENDMENT)	(1837) 7 WM IV. and 1 VICT. c. 78, s. 45 to 48.
GRAMMAR SCHOOLS	(1840) 3 & 4 VICT. c. 77.
ENDOWED SCHOOLS ACT	(1860) 23 VICT. c. 11.
SCHOOL SITES	(1841) 4 & 5 VICT. c. 38.
,,	(1844) 7 & 8 VICT. c. 37.
,,	(1849) 12 & 13 VICT. c. 49.
,, (TITLES OF RELIGIOUS CONGREGATIONS)	(1850) 13 & 14 VICT. c. 28.
,,	(1851) 14 & 15 VICT. c. 24.
,,	(1852) 15 & 16 VICT. c. 49.
,,	(1855) 18 & 19 VICT. c. 131.
LITERARY AND SCIENTIFIC INSTITUTIONS	(1854) 17 & 18 VICT. c. 112, s. 4, 6, 7, 10, 12 to 14, and 17.
UNIVERSITIES (COLLEGES OF OXFORD AND WINCHESTER)	(1854) 17 & 18 VICT. c. 81, s. 31.
,, (COLLEGES OF CAMBRIDGE AND ETON)	(1856) 19 & 20 VICT. c. 88, s. 33.
METROPOLIS LOCAL MANAGEMENT	(1855) 18 & 19 VICT. c. 120. s. 91 and 199.
,, ,,	(1856) 19 & 20 VICT. c. 112, s. 3.
SMALL TENEMENTS (RECOVERY OF POSSESSION)	(1838) 1 & 2 VICT. c. 74.
,, ,, ,,	(1846) 9 & 10 VICT. c. 95, s. 122.
,, ,, ,,	(1856) 19 & 20 VICT. c. 108, s. 50 to 52.
LANDS CLAUSES CONSOLIDATION ACT, 1845	8 VICT. c. 18, s. 1 to 15, 69 to 83, and 95 to 98.
BURIAL GROUND	(1852) 15 & 16 VICT. c. 85, s. 29.
RECREATION GROUNDS ACT, 1859	22 VICT. c. 27.
BISHOPS' TRUSTS SUBSTITUTION	(1858) 21 & 22 VICT. c. 71.
LARCENY ACT (FRAUDULENT TRUSTEES)	(1861) 24 & 25 VICT. c. 96, s. 1, 80, and 86.
INVESTMENT OF TRUST FUNDS	(1867) 30 & 31 VICT. c. 132.
PARLIAMENTARY SCHEMES (TABLE OF).	
MINUTES OF BOARD.	

43 ELIZ. CAP. 4.

An Act to redress the Misemployment of Lands, Goods, and Stocks of Money heretofore given to charitable Uses.

[1601.]

WHEREAS divers lands, tenements, rents, annuities, profits, hereditaments, goods, chattels, money, and stocks of money have been heretofore given, limited, appointed, and assigned as well by the Queen's most excellent Majesty and her most noble progenitors as by sundry other well-disposed persons, some for relief of aged, impotent, and poor people; some for maintenance of sick and maimed soldiers and mariners, schools of learning, free schools, and scholars in universities; some for repair of bridges, ports, havens, causeways, churches, sea banks, and highways; some for education and preferment of orphans; some for or towards relief, stock, or maintenance for houses of correction; some for marriages of poor maids; some for supportation, aid, and help of young tradesmen, handicraftsmen, and persons decayed, and others for relief or redemption of prisoners or captives, and for aid or ease of any poor inhabitants concerning payment of fifteens, setting out of soldiers, and other taxes, which lands, tenements, rents, annuities, profits, hereditaments, goods, chattels, money, and stocks of money nevertheless have not been employed according to the charitable intent of the givers and founders thereof, by reason of frauds, breaches of trust, and negligence in those that should pay, deliver, and employ the same; for redress and remedy whereof, be it enacted by authority of this present parliament, that it shall and may be lawful to and for the Lord Chancellor or Keeper of the Great

Commissioners to inquire of gifts of lands, &c.

Seal of England for the time being, and for the Chancellor of the Duchy of Lancaster for the time being for lands within the County Palatine of Lancaster, from time to time to award commissions under the Great Seal of England, or the Seal of the County Palatine, as the case shall require, into all or any part or parts of this realm respectively, according to their several jurisdictions as aforesaid, to the bishop of every several diocese and his Chancellor, in case there shall be any bishop of that diocese at the time of awarding of the same commissions, and to other persons of good and sound behaviour, authorizing them thereby, or any four or more of them, to inquire as well by the oaths of twelve lawful men or more of the county as by all other good and lawful ways and means of all and singular such gifts, limitations, assignments, and appointments aforesaid, and of the abuses, breaches of trusts, negligences, misemployments, not employing, concealing, defrauding, misconverting or misgovernment of any lands, tenements, rents, annuities, profits, hereditaments, goods, chattels, money, or stocks of money heretofore given, limited, appointed, or assigned, or which hereafter shall be given, limited, appointed, or assigned, to or for any the charitable and godly uses before rehearsed; and after the said commissioners or any four or more of them, upon calling the parties interested in any such lands, tenements, rents, annuities, profits, hereditaments, goods, chattels, money, and stocks of money, shall make inquiry by the oaths of twelve men or more of the said county, whereunto the said parties interested shall and may have and take their lawful challenge and challenges, and upon such inquiry, hearing, and examining thereof set down such orders, judgments, and decrees as the said lands, tenements, rents, annuities, profits, goods, chattels, money, and stocks of money may be duly and faithfully employed to and for such of the charitable uses and intents before rehearsed respectively, for which they were given, limited, assigned, or appointed by the donors and founders thereof, which

Inquiry.

orders, judgments, and decrees, not being contrary or repugnant to the orders, statutes, or decrees of the donors or founders, shall, by the authority of this present parliament, stand firm and good, according to the tenor and purport thereof, and shall be executed accordingly, until the same shall be undone or altered by the Lord Chancellor of England, or Lord Keeper of the great seal of England, or the Chancellor of the County Palatine of Lancaster, respectively, within their several jurisdictions, upon complaint by any party grieved to be made to them. Commissioners' orders shall be executed. May be altered.

II. Provided always, that neither this Act nor anything therein contained shall in anywise extend to any lands, tenements, rents, annuities, profits, goods, chattels, money, or stocks of money given, limited, appointed, or assigned, or which shall be given, limited, appointed or assigned to any college, hall, or house of learning within the Universities of Oxford or Cambridge, or to the colleges of Westminster, Eton, or Winchester, or any of them, or to any cathedral or collegiate church within this realm. Proviso for colleges, &c.

III. And provided also, that neither this Act nor anything therein shall extend to any city or town corporate, or to any the lands or tenements given to the uses aforesaid within any such city or town corporate, where there is a special governor or governors appointed to govern or direct such lands, tenements, or things disposed to any the uses aforesaid, neither to any college, hospital, or free school which have special visitors or governors, or overseers appointed them by their founders. Proviso for city, &c.

IV. Provided also, and be it enacted by the authority aforesaid, that neither this Act nor anything therein contained shall be any way prejudicial or hurtful to the jurisdiction or power of the ordinary, but that he may lawfully in every cause execute and perform the same as though this Act had never been had or made. Jurisdiction of ordinary.

Who shall not be commissioner or juror.

V. Provided also, and be it enacted, That no person or persons that hath or shall have any of the said lands, tenements, rents, annuities, profits, hereditaments, goods, chattels, money, or stocks of money in his hands or possession, or doth or shall pretend title thereunto, shall be named a commissioner or a juror for any the causes aforesaid, or being named shall execute or serve in the same.

Purchasers of lands bonâ fide.

VI. And provided also, That no person or persons which hath purchased or obtained, or shall purchase or obtain, upon valuable consideration of money or land, any estate or interest of, in, to, or out of any lands, tenements, rents, annuities, hereditaments, goods, or chattels that have been or shall be given, limited, or appointed to any the charitable uses above-mentioned, without fraud or covin, having no notice of the same charitable use, shall not be impeached by any decrees or orders of commissioners above mentioned for or concerning the same his estate or interest; and yet, nevertheless, be it enacted, That the said commissioners, or any four or more of them, shall and may make decrees and orders for recompense to be made by any person or persons who, being put in trust or having notice of the charitable uses above mentioned, hath or shall break the same trust or defraud the same uses by any conveyance, gift, grant, lease, demise, release, or conversion whatsoever, and against the heirs, executors, and administrators of him, them, or any of them, having assets in law or equity, so far as the same assets will extend.

Breaking trust. Recompense.

Proviso for lands assured to Hen. 8, Edw. 6, Queen Mary, and Queen Elizabeth.

VII. Provided always, that this Act shall not extend to give power or authority to any Commissioners before mentioned to make any orders, judgments, or decrees for or concerning any manors, lands, tenements, or other hereditaments assured, conveyed, granted, or come unto the Queen's Majesty, or to the late King Henry the Eighth, King Edward the Sixth, or Queen Mary, by

Act of parliament, surrender, exchange, relinquishment, escheat, attainder, conveyance, or otherwise; and yet, nevertheless, be it enacted, That if any such manors, lands, tenements, or hereditaments, or any of them, or any estate, rent, or profit thereof, or out of the same or any part thereof, have or hath been given, granted, limited, appointed, or assigned to or for any the charitable uses before expressed at any time since the beginning of Her Majesty's reign, that then the said Commissioners, or any four or more of them, shall and may, as concerning the same lands, tenements, hereditaments, estate, rent, or profit so given, limited, appointed, or assigned, proceed to inquire and to make orders, judgments, and decrees according to the purport and meaning of this Act, as before is mentioned, the said last-mentioned proviso notwithstanding.

Certifying orders.

VIII. And be it further enacted, That all orders, judgments, and decrees of the said commissioners, or of any four or more of them, shall be certified under the seals of the said commissioners, or any four or more of them, either into the court of the Chancery of England or into the court of the Chancery within the County Palatine of Lancaster, as the case shall require respectively, according to their several jurisdictions, within such convenient time as shall be limited in the said commissions.

Execution of decree.

IX. And that the said Lord Chancellor or Lord Keeper, and the said Chancellor of the Duchy, shall and may within their said several jurisdictions take such order for the due execution of all or any of the said judgments, decrees, and orders as to either of them shall seem fit and convenient.

Appeal.

X. And that if after any such certificate or certificates made any person or persons shall find themselves grieved with any of the said orders, judgments, or decrees, that

then it shall and may be lawful to and for them or any of them to complain in that behalf unto the said Lord Chancellor or Lord Keeper, or to the Chancellor of the said Duchy of Lancaster, according to their several jurisdictions, for redress therein; and that upon such complaint the said Lord Chancellor or Lord Keeper, or the said Chancellor of the Duchy, may, according to their said several jurisdictions, by such course as to their wisdoms shall seem meetest, the circumstances of the case considered, proceed to the examination, hearing, and determining thereof; and upon hearing thereof shall and may annul, diminish, alter, or enlarge the said orders, judgments, and decrees of the said commissioners, or any four or more of them, as to either of them in their said several jurisdictions shall be thought to stand with equity and good conscience, according to the true intent and meaning of the donors and founders thereof; and shall and may tax and award good costs of suit, by their discretions, against such persons as they shall find to complain unto them, without just and sufficient cause, of the orders, judgments, and decrees before mentioned.

Costs of suit against the complainers.

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7 JAMES I. Cap. 3.

An Act for the continuing and better Maintenance of Husbandry and other manual Occupations, by the true Employment of monies given and to be given for the Binding out of Apprentices.

[1609.]

How money given for the binding out of poor children apprentices shall be employed, and by whom.

II. Be it therefore enacted by the King's most excellent Majesty, the Lords spiritual and temporal, and the Commons, in this present parliament assembled, and by the authority of the same, that all sums of money so freely given at any time within three years last past, or hereafter to be given by any person or persons, to be continually employed for the binding out of apprentices

as aforesaid, shall for ever from henceforth continue and be from time to time used and employed to such uses, intents and purposes only, and by such persons, and in such manner and form as shall be hereafter by this present Act specified and declared, except the same have been or shall be otherwise ordered or disposed by the givers thereof, that is to say, that all corporations of all cities, boroughs, and towns corporate, by what name or names soever they shall be known or incorporated, and in towns and parishes not incorporate, the parson or vicar of every such town or parish, together with the constable or constables, the churchwarden or churchwardens, collectors, and the overseers for the poor for the time being, or the most part of them, where any such sum or sums of money are already given, or shall be hereafter given, to be so employed, shall from time to time within the said several cities, boroughs, towns and parishes respectively, have the nomination and placing of such apprentices, and the guiding and employment of all such monies as have been heretofore so given, or which hereafter shall be given, to and for the continual binding forth of such and so many apprentices, and in such sort as is already, or shall hereafter be so given and appointed, either by the last will and testament or by any writing or writings under the hands and seals of any person or persons which hath already, or hereafter shall so give any sum or sums of monies unto the good and godly purposes and intents aforesaid: And if the corporation of any such cities, boroughs or towns corporate, by what name or names soever they shall be called or incorporated, or any the person or persons in the other towns and parishes above mentioned, appointed by this Act to have continually the guiding and employment of such sums of monies so already given, or hereafter to be given, to the intents and purposes aforesaid, shall at any time hereafter wilfully forbear or refuse, according to their duties in this behalf, to employ such sums of money so given or to be given as aforesaid for the binding out of such apprentices, by

The forfeiture of those who of duty ought, and yet refuse to employ the money.

means of which wilful forbearance or refusing, the said money shall not be employed accordingly; that then they and every of them so offending contrary to this Act, shall forfeit for every such offence, the sum of three pounds six shillings and eight pence lawful English money; the one half thereof to be given to the poor of the town or parish where such fault or offence shall be done or committed; the other moiety to the party that shall sue for the same; and that every man that will, may and shall be admitted to sue for the same moiety, for the use and benefit of the said poor, and shall be also admitted to sue for the forfeiture of the other moiety, in any of the King's Majesty's Courts of Record, to his own benefit and behoof, by action of debt, bill, plaint or information, wherein no Protection, Wager of Law or Essoin shall be admitted or allowed.

Within what time the money shall be put forth.

IV. And be it further enacted by the authority aforesaid, That every such sum or sums of money so given or to be given in manner and form, and to and for the good uses and intents aforesaid, shall always be put forth and employed by the parties aforesaid, that by this Act shall have the disposing and employment thereof, within three months at the farthest, after such money shall come to the hands of the said parties, that by the intent and true meaning of this Act ought to dispose and employ the same: and if at such times there shall not be found fit and apt persons to be bound out apprentices as aforesaid, within the said cities, towns and parishes where such sums of money are or hereafter shall be given to be employed as afore is declared; then such of the poorest children of any of the parishes next adjoining shall be bound apprentices in manner as aforesaid, as by the care and good discretions of the parties which by this Act have the disposing and employment of the said sums of money in the cities, towns, and parishes where it was first given to be employed, shall be thought fit and convenient, taking such bonds and obligations of the persons

A provision if there be not fit persons in that parish to be apprentices.

that shall receive the said sums of money so put forth, and with such sureties, and upon such conditions as is above mentioned and declared.

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9 GEO. II. CAP. 36.

An Act to restrain the Dispositions of Lands, whereby the same become unalienable.

[1736.]

WHEREAS gifts or alienations of lands, tenements, or hereditaments in mortmain are prohibited or restrained by Magna Charta and divers other wholesome laws, as prejudicial to and against the common utility, nevertheless this public mischief has of late greatly increased, by many large and improvident alienations or dispositions made by languishing or dying persons, or by other persons, to uses called charitable uses, to take place after their deaths, to the disherison of their lawful heirs: for remedy whereof be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of June which shall be in the year of our Lord one thousand seven hundred and thirty-six no manors, lands, tenements, rents, advowsons, or other hereditaments, corporeal or incorporeal, whatsoever, nor any sum or sums of money, goods, chattels, stocks in the public funds, securities for money, or any other personal estate whatsoever, to be laid out or disposed of in the purchase of any lands, tenements, or hereditaments, shall be given, granted, aliened, limited, released, transferred, assigned, or appointed, or any ways conveyed or settled, to or upon any person or persons, bodies politic or corporate, or otherwise, for any estate or interest whatsoever, or any ways charged or incumbered by any person or persons what-

Preamble.

After 24th June, 1736, no manors, lands, &c., nor sums of money, goods, &c., to be given for charitable uses,

soever, in trust or for the benefit of any charitable uses whatsoever, unless such gift, conveyance, appointment, or settlement of any such lands, tenements, or hereditaments, sum or sums of money, or personal estate (other than stocks in the public funds), be and be made by deed indented, sealed and delivered in the presence of two or more credible witnesses twelve calendar months at least before the death of such donor or grantor (including the days of the execution and death), and be enrolled in His Majesty's High Court of Chancery within six calendar months next after the execution thereof, and unless such stocks be transferred in the public books usually kept for the transfer of stocks, six calendar months at least before the death of such donor or grantor (including the days of the transfer and death), and unless the same be made to take effect in possession for the charitable use intended immediately from the making thereof, and be without any power of revocation, reservation, trust, condition, limitation, clause, or agreement whatsoever for the benefit of the donor or grantor or of any person or persons claiming under him.

unless by deed indented, and executed before two witnesses, twelve months before the death of the donor, and enrolled, &c.

II. Provided always, that nothing hereinbefore mentioned relating to the sealing and delivery of any deed or deeds twelve calendar months at least before the death of the grantor, or to the transfer of any stock six calendar months before the death of the grantor or person making such transfer, shall extend or be construed to extend to any purchase of any estate or interest in lands, tenements, or hereditaments, or any transfer of any stock, to be made really and *bonâ fide* for a full and valuable consideration (*a*) actually paid at or before the making such conveyance or transfer, without fraud or collusion.

The said limitations not to extend to purchases or transfers made for valuable considerations.

III. And be it further enacted by the authority aforesaid, that all gifts, grants, conveyances, appointments,

Gifts, &c., made after 24th June,

(*a*) See 9 Geo. 4, c. 85, sec. 1, p. 94; and 24 Vict. c. 9, sec. 3, p. 98.

assurances, transfers, and settlements whatsoever of any lands, tenements, or other hereditaments, or of any estate or interest therein, or of any charge or incumbrance affecting or to affect any lands, tenements, or hereditaments, or of any stock, money, goods, chattels, or other personal estate, or securities for money, to be laid out or disposed of in the purchase of any lands, tenements, or hereditaments, or of any estate or interest therein, or of any charge or incumbrance affecting or to affect the same, to or in trust for any charitable uses whatsoever, which shall at any time from and after the said twenty-fourth day of June one thousand seven hundred and thirty-six be made in any other manner or form than by this Act is directed and appointed shall be absolutely and to all intents and purposes null and void.

1736, otherwise than directed by this Act to be absolutely void.

IV. Provided always, that this Act shall not extend or be construed to extend to make void the dispositions of any lands, tenements, or hereditaments, or of any personal estate to be laid out in the purchase of any lands, tenements, or hereditaments, which shall be made in any other manner or form than by this Act is directed, to or in trust for either of the two universities within that part of Great Britain called England, or any of the colleges or houses of learning within either of the said universities, or to or in trust for the colleges of Eton, Winchester, or Westminster, or any or either of them, for the better support and maintenance of the scholars only upon the foundations of the said colleges of Eton, Winchester, and Westminster.

But not to prejudice the two universities, or the colleges of Eton, Winchester, or Westminster.

V. Provided nevertheless, and be it enacted by the authority aforesaid, that no such college or house of learning which doth or shall hold or enjoy so many advowsons of ecclesiastical benefices as are or shall be equal in number to one moiety of the fellows or persons usually styled or reputed as fellows, or, where there are or shall be no fellows or persons usually styled or reputed as fellows, to one moiety of the students upon the founda-

No college to hold more advowsons than shall be equal to one moiety of their fellows, &c.

tion whereof any such college or house of learning doth or may by the present constitution of such college or house of learning consist, shall, from and after the twenty-fourth day of June one thousand seven hundred and thirty-six, be capable of purchasing, acquiring, receiving, taking, holding, or enjoying any other advowsons of ecclesiastical benefices by any means whatsoever; the advowsons of such ecclesiastical benefices as are annexed to or given for the benefit or better support of the headships of any of the said colleges or houses of learning not being computed in the number of advowsons hereby limited.

This Act not to extend to Scotland.

VI. Provided always, that nothing in this Act contained shall extend or be construed to extend to the disposition, grant, or settlement of any estate real or personal, lying or being within that part of Great Britain called Scotland.

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9 GEO. IV. CAP. 85.

An Act for remedying a Defect in the Titles of Lands purchased for Charitable Purposes.

[25*th July*, 1828.]

WHEREAS by an Act passed in the ninth year of the reign of His late Majesty King George the second, and
9 Geo. 2, c. 36. intituled "An Act to restrain the Disposition of Lands whereby the same become unalienable," it was amongst other things enacted, that after the twenty-fourth day of June, one thousand seven hundred and thirty-six, no manors, lands, tenements, rents, advowsons, or other hereditaments, corporeal or incorporeal, whatsoever, should be given, granted, aliened, limited, released, transferred, assigned, or appointed, or anyways conveyed or settled to or upon any person or persons, bodies politic or corporate, or otherwise, for any estate or interest whatsoever, or anyways charged or incumbered by any person or

persons whatsoever, in trust or for the benefit of any charitable uses whatsoever, unless such gift, conveyance, appointment, or settlement of any such lands, tenements, or hereditaments were made by deed indented, sealed and delivered in the presence of two or more credible witnesses, twelve calendar months at the least before the death of such donor or grantor, (including the days of the execution and death,) and were enrolled in His Majesty's High Court of Chancery within six calendar months next after the execution thereof, and unless the same were made to take effect in possession, for the charitable use intended, immediately from the making thereof, and were without any power of revocation, reservation, trust, condition, limitation, clause, or agreement whatsoever, for the benefit of the donor or grantor, or of any person or persons claiming under him; but it was thereby provided, that nothing thereinbefore mentioned, relating to the sealing and delivery of any deed or deeds twelve calendar months at least before the death of the grantor, should extend or be construed to extend to any purchase of any estate or interest in lands, tenements, or hereditaments, to be made really and *bonâ fide* for a full and valuable consideration actually paid at or before the making such conveyance, without fraud or collusion; and it was thereby enacted, that all gifts, grants, appointments, assurances, transfers, and settlements whatsoever, of any lands, tenements, or other hereditaments, or of any estate or interest therein, or of any charge or incumbrance affecting or to affect any lands, tenements, or hereditaments, to or in trust for any charitable uses whatsoever, which should at any time after the said twenty-fourth day of June, one thousand seven hundred and thirty-six, be made in any other manner or form than by the said Act was directed and appointed, should be absolutely and to all intents and purposes null and void: and whereas the said provision contained in the said recited Act, in relation to the purchase of any estate or interest in lands, tenements, or hereditaments, for a full and valuable con-

sideration, was only intended to prevent such purchases from being avoided by reason of the death of the grantor within twelve calendar months after the sealing and delivery of the deed or deeds relating thereto: and whereas it has notwithstanding been generally apprehended that the said last-mentioned provision was intended wholly to exempt such purchases from the operation of the said Act, and in consequence thereof the formalities by the said Act prescribed, in relation to the conveyance of hereditaments to charitable uses, have in divers instances been omitted on purchases for a full and valuable consideration, and by reason of such omission the title to such hereditaments may be considered defective: and whereas it is expedient that provision should be made for remedying such defect in manner herein-after mentioned: may it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that where any lands, tenements, or hereditaments, or any estate or interest therein, have or has been purchased for a full and valuable consideration, in trust or for the benefit of any charitable uses whatsoever, and such full and valuable consideration has been actually paid for the same, every deed or other assurance already made for the purpose of conveying or assuring such lands, tenements, or hereditaments, estate or interest as aforesaid, in trust or for the benefit of such charitable uses, (if made to take effect in possession, for the charitable use intended, immediately from the making thereof, and without any power of revocation, reservation, trust, condition, limitation, clause, or agreement whatsoever, for the benefit of the grantor, or of any person or persons claiming under him,) shall be as good and valid, and of the same effect, both for establishing derivative titles, and in all other respects, as if the several formalities by the said Act prescribed had been duly observed and performed.

Deeds relating to purchase of lands for charitable purposes to be valid, although the formalities prescribed by the recited Act have not been duly performed.

II. Provided always, and be it further enacted, that nothing in this Act contained shall extend to give effect to any deed or other assurance heretofore made, so far as the same has been already avoided by suit at law or in equity, or by any other legal or equitable means whatsoever, or to affect or prejudice any suit at law or in equity actually commenced for avoiding any such deed or other assurance, or for defeating the charitable uses in trust or for the benefit of which such deed or other assurance may have been made. Act not to extend to deeds avoided by suits at law.

III. Provided also, and be it further enacted, that nothing herein contained shall be construed to dispense with any of the said several formalities prescribed by the said recited Act, in relation to any deed or other assurance which shall be made after the passing of this present Act. Not to dispense with prescribed formalities.

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24 VICT. CAP. 9.

An Act to amend the Law relating to the Conveyance of Land for Charitable Uses.

[17*th May*, 1861.]

WHEREAS by an Act passed in the ninth year of the reign of His late Majesty King George the Second, and intituled "An Act to restrain the Disposition of Lands whereby the same become inalienable," it was amongst other things enacted, that no lands or other hereditaments should be given, granted, or anyways conveyed, settled, or charged for charitable uses, unless such gift, conveyance, or settlement should be made by deed indented and enrolled, sealed and delivered in the presence of two or more credible witnesses twelve calendar months at least before the death of such donor or grantor, and should be enrolled in the High Court of Chancery within six calendar months next after the execution thereof, and 9 Geo. 2, c. 36.

unless the same should be made to take effect in possession for the charitable use intended immediately from the making thereof, and should be without any power of revocation, reservation, trust, condition, limitation, clause, or agreement whatsoever for the benefit of the donor or grantor, or of any person claiming under him: and whereas by another Act passed in the ninth year of the reign of His late Majesty King George the Fourth, and
9 Geo. 4, c. 85. intituled "An Act for remedying a Defect in the Titles of Lands purchased for Charitable Purposes," it was enacted, that where any lands, tenements, or hereditaments had been purchased for a full and valuable consideration for charitable uses, and such consideration had been actually paid, every deed or other assurance then already made for the purpose of conveying or assuring the same should (subject as in the now-reciting Act mentioned) be as good and valid in all respects as if the several formalities by the said first-recited Act prescribed had been duly observed and performed: and whereas doubts have been entertained with reference to the assurance for charitable uses of hereditaments of copyhold or customary tenure: and whereas it is expedient to make provision for further remedying defects and obviating doubts and difficulties, and as to enrolment in regard to deeds and assurances of hereditaments conveyed for charitable uses in manner herein-after provided: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

No future deed, &c. for charitable uses to be void by reason of not being indented, or of specified stipulations for

I. No deed or assurance hereafter to be made for any charitable uses whatsoever of any hereditaments of any tenure (*a*) whatsoever, or of any estate or interest therein, shall be deemed to be null and void within the meaning of the first-recited Act by reason of such deed or assurance

(*a*) See 25 Vict. c. 17, sec. 2, p. 101.

not being indented, or not purporting to be indented, nor by reason of such deed or assurance, or any deed forming part of the same transaction, containing any grant or reservation of any peppercorn or other nominal rent, or of any mines or minerals, or easement, or any covenants or provisions as to the erection, repair, position, or description of buildings, the formation or repair of streets or roads, drainage or nuisances, or any covenants or provisions of the like nature for the use and enjoyment as well of the hereditaments comprised in such deed or assurance as of any other adjacent or neighbouring hereditaments, or any right of entry on nonpayment of any such rent, or on breach of any such covenant or provision, or any stipulations of the like nature for the benefit of the donor or grantor, or of any person or persons claiming under him, nor (in the case of any such assurance of hereditaments of copyhold or customary tenure, or of any estate or interest therein,) by reason of the same not being made by deed, nor in the case of such assurances made *bonâ fide* on a sale for a full and valuable consideration, by reason of such consideration consisting wholly or partly of a rent, rentcharge, or other annual payment reserved or made payable to the vendor or to any other person with or without a right of re-entry for nonpayment thereof: provided always, that in all reservations authorized by this Act the donor, grantor, or vendor shall reserve the same benefits for his representatives as for himself.

donor's benefit, or (as to copyholds) for want of deed.

II. In all cases where the charitable uses of any deed or assurance hereafter to be made for conveyance of any hereditaments for any charitable uses shall be declared by any separate or other deed or instrument, it shall not be necessary, for the purposes of the first recited Act or of this Act, to enrol such deed or assurance for conveyance; but every such deed or assurance for conveyance shall nevertheless be absolutely null and void unless such separate or other deed or instrument shall within six

Where charitable uses of any future deed, &c. is declared by any separate or other deed, &c., enrolment of such separate or other deed, &c. requisite.

calendar months (*a*) next after the making or perfecting of such deed or assurance for conveyance be enrolled in Her Majesty's High Court of Chancery, and such enrolment as last aforesaid shall be deemed and treated for all purposes of the first recited Act and of this Act as if such deed or assurance for conveyance had declared such charitable uses, and had been so enrolled as last aforesaid.

No past deed, &c. for charitable uses upon valuable consideration to be void for any reason if enrolled in Chancery.

III. No deed or assurance heretofore made and under which possession is now held for any charitable uses whatsoever of any hereditaments of any tenure whatsoever, or of any estate or interest therein, made really and *bonâ fide* for a full and valuable consideration actually paid at or before the making or perfecting such deed or assurance, or reserved by way of rent, rentcharge, or other annual payment, or partly paid at or before the making or perfecting such deed or assurance and partly reserved as aforesaid, without fraud or collusion, shall for any reason whatever be deemed to be null and void within the meaning of the first recited Act, if such deed or assurance was made to take effect in possession for the charitable uses intended immediately from the making thereof, and without any power of revocation, and has been at any time prior to the passing of this Act, or shall be within twelve calendar months next after the passing of this Act (*b*), enrolled in Her Majesty's High Court of Chancery.

Where charitable uses of any past deed, &c. not enrolled are declared by any other deed, &c., enrolment of such other deed, &c. sufficient.

IV. In all cases where the charitable uses of any deed or assurance heretofore made for conveyance of any hereditaments for any charitable uses upon such full and valuable consideration as aforesaid, and under which possession is now held for such uses, have been declared by any separate or other deed or instrument, and such deed or assurance for conveyance has not been enrolled in Her Majesty's High Court of Chancery prior to the

(*a*) See 25 Vict. c. 17, sec. 1, p. 101; 27 Vict. c. 13, sec. 1, p. 106; and 29 & 30 Vict. c. 57, sec. 1, p. 108. (*b*) *Id.*

passing of this Act, but such separate or other deed or instrument has been so enrolled, such enrolment shall be deemed and treated for all purposes of the first recited Act and of this Act as if such deed or assurance for conveyance had declared such charitable uses, and had been so enrolled as last aforesaid; but if neither of such deeds nor such instrument has been so enrolled, then it shall not be necessary for the purposes of the first recited Act or of this Act to enrol such deed or assurance for conveyance, but every such deed or assurance for conveyance shall nevertheless be absolutely and to all intents and purposes null and void, unless such separate or other deed or instrument shall within twelve calendar months next after the passing of this Act be so enrolled; and such enrolment as last aforesaid shall be deemed and treated for all purposes of the first recited Act and of this Act as if such deed or assurance for conveyance had declared such charitable uses, and had been so enrolled as last aforesaid.

Where neither deed, &c. is enrolled, enrolment of such separate or other deed, &c. requisite (*c*).

V. Nothing in this Act contained shall extend to render null and void or in any manner to affect or apply to any deed already good and valid by virtue of the secondly recited Act or of any other Act, or to give effect to any deed or assurance heretofore made so far as such deed or assurance has already been avoided by any suit at law or in equity, or by any other legal or equitable means whatsoever, or to affect or prejudice any suit at law or in equity actually commenced for avoiding any such deed or assurance, or for defeating the charitable uses in trust or for the benefit of which such deed or assurance has been made; and no deed, assurance, or instrument thirty years old, nor any deed, assurance, or instrument heretofore executed, as to which it shall be proved to the satisfaction of the Clerk of Enrolments in Chancery that the acknowledgment thereof by the grantor of the lands or here-

Act not to invalidate certain deeds, nor to extend to deeds, &c. already avoided, or to pending suits.

When acknowledgment not necessary.

(*c*) See 25 Vict. c. 17, sec. 4, p. 101; and 27 Vict. c. 13, sec. 2, p. 106.

ditaments to which the same relates cannot be obtained within twelve calendar months after the passing of this Act, shall for the purposes of the first recited Act or of this Act require acknowledgment prior to enrolment.

Act not to extend to Scotland or Ireland, nor to prejudice the two universities, or the colleges of Eton, Winchester, or Westminster.

VI. Nothing in this Act contained shall extend or be construed to extend to the disposition, grant, or settlement of any property or estate lying or being in Scotland or in Ireland, nor to make void any dispositions made or to be made to or in trust for either of the two Universities, or any of the colleges or houses of learning within either of such universities, in the first recited Act mentioned, or to or in trust for the colleges of Eton, Winchester, or Westminster, or any or either of them, for the better support and maintenance of scholars only upon the foundation of the said colleges of Eton, Winchester, and Westminster.

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25 VICT. CAP. 17.

An Act to extend the Time for making Enrolments under the Act passed in the last Session of Parliament, intituled an Act to amend the Law relating to the Conveyance of Land for Charitable Uses, and to explain and amend the said Act.

[16*th May*, 1862.]

24 & 25 Vict. c. 9.

WHEREAS by an Act passed in the last Session of Parliament, intituled "An Act to amend the Law relating to the Conveyance of Land for Charitable Uses," time was given for enrolling certain deeds, assurances, and instruments therein referred to until the expiration of twelve calendar months next after the passing of the said Act: and whereas the said Act received the royal assent on the seventeenth day of May one thousand eight hundred and sixty-one, so that the time thereby given for making such enrolments will expire at the end of twelve calendar

months from that day: and whereas from the great number of deeds, assurances, and instruments to be enrolled under the provisions aforesaid it is reasonable to allow an extension of time for that purpose: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Extension of time for enrolment of deeds and assurances (*a*).

I. The enrolment of every deed, assurance, and instrument which shall be enrolled before the seventeenth day of May one thousand eight hundred and sixty-four shall, for the purposes of the said Act, have the same force and effect which it would have had if such enrolment had been within twelve calendar months next after the passing of the said Act.

Recited Act comprises all lands whether of freehold or of customary or copyhold tenure.

II. And whereas by the said Act it is enacted that certain assurances to be thereafter made *bonâ fide* on a sale for a full and valuable consideration, should not be deemed null and void by reason of the consideration consisting wholly or partly of a rent, rentcharge, or other annual payment reserved as therein mentioned, and doubts have arisen whether the said enactment refers to any hereditaments not of copyhold or customary tenure: be it therefore declared and enacted, that the said enactment comprises and extends to all hereditaments whether of freehold or of customary or copyhold tenure, and to every estate and interest therein.

As to deeds, &c., executed prior to passing of recited Act.

III. No deed, assurance, or instrument executed previously to the passing of the said Act shall, for the purposes thereof, require acknowledgment prior to enrolment.

Acts to apply

IV. And whereas it is by the fourth section (*b*) of the

(*a*) Extended. See 27 Vict. c. 13, sec. 1, p. 106; and see 29 & 30 Vict. c. 57, sec. 1, p. 108.

(*b*) See p. 99; and see also 27 Vict. c. 13, sec. 2, p. 106.

to cases where separate deed executed as well after as before passing of recited Act.

said Act enacted, that where the charitable uses of any such deed or assurance for conveyance as is therein mentioned had been declared by any separate deed or instrument, then, if neither of the said deeds or instruments had been enrolled, it should not be necessary to enrol such deed or assurance for conveyance, but every such deed or assurance for conveyance should be void, unless such other separate deed or instrument should be enrolled within such time as therein mentioned: And whereas it may happen that such deed or assurance of conveyance may have been executed before the passing of the said Act, but the separate deed or instrument declaring the charitable uses may not have been executed until after the passing of the said Act: be it therefore enacted, that the said Act and this Act shall be taken to apply as well to cases where such separate deed or instrument shall be or shall have been executed after as to cases where it may have been executed before the passing of the said Act; provided only that, if not already executed, it be executed within six months next after the passing of this Act.

Provision as to money expended before passing of Act in permanent improvements.

V. In all cases in which money shall have been really and *bonâ fide* expended before the passing of this Act, in the substantial and permanent improvement, by building or otherwise, for any charitable use, of land of any tenure whatsoever, of which possession is now held by virtue of any deed or assurance conveying or purporting to convey the same, or declaring any trusts or trust thereof for such charitable use, all money so expended shall be deemed, for the purposes of the said Act, equivalent to money actually paid by way of consideration for the purchase of the said land.

Act not to invalidate any deed.

VI. Nothing in this Act contained shall extend to render null and void any deed or assurance already good and valid.

26 & 27 VICT. CAP. 106.

An Act to further amend the Law relating to the Conveyance of Land for Charitable Uses.

[28*th July*, 1863.]

WHEREAS by an Act passed in the Twenty-fourth Year of Her present Majesty, intituled "An Act to amend the Law relating to the Conveyance of Land for Charitable Uses," it was amongst other things enacted, that "no deed, or assurance theretofore made, and under which possession was then held for any charitable uses whatsoever, of any hereditaments of any tenure whatsoever, or of any estate or interest therein, made really and *bonâ fide* for a full and valuable consideration actually paid at or before the making or perfecting such deed or assurance, or reserved by way of rent, rentcharge, or other annual payment, or partly paid at or before the making or perfecting such deed or assurance, and partly reserved as aforesaid, without fraud or collusion, should for any reason whatever be deemed to be null and void within the meaning of the first therein recited Act, (being an Act passed in the ninth year of His late Majesty King George the Second, intituled 'An Act to restrain the Disposition of Lands whereby the same become inalienable,') if such deed or assurance was made to take effect for the charitable uses intended immediately from the making thereof, and without any power of revocation, and had been at any time prior to the passing of that Act, or should be within twelve calendar months next after the passing of that Act, enrolled in Her Majesty's High Court of Chancery:" And whereas by another Act passed in the session of twenty-fifth and twenty-sixth years of the reign of Her present Majesty, intituled "An Act to extend the time for making Enrolments under an Act passed in the last Session of Parliament, intituled

24 & 25 Vict. c. 9.

9 Geo. 2, c. 36.

25 & 26 Vict. c. 17.

'An Act to amend the Law relating to the Conveyance of Land for Charitable Uses,' and to explain and amend the said Act," the time for making Enrolments under the said first-recited Act was extended till the seventeenth day of May one thousand eight hundred and sixty-four; and it was thereby further provided, that in all cases in which money should have been really and *bonâ fide* expended before the passing of that Act in the substantial and permanent improvement, by building or otherwise, for any charitable use, of land of any tenure whatsoever, of which possession was then held by virtue of any deed or assurance conveying or purporting to convey the same, or declaring any trusts or trust thereof for such charitable use, all money so expended should be deemed, for the purposes of the said Act, equivalent to money actually paid by way of consideration for the purchase of the said land: And whereas it is expedient that the said Acts should be further amended: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:—

Deeds by which lands are demised for charitable uses to take effect from the making thereof.

I. Every deed or assurance by which any land shall have been demised for any term of years for any charitable use shall, for all the purposes of the said recited acts, be deemed to have been made to take effect for the charitable use thereby intended immediately from the making thereof, if the term for which such land shall have been thereby demised was thereby made to commence and take effect in possession at any time within one year from the date of such deed or assurance.

27 VICT. CAP. 13.

An Act to further extend the Time for making Enrolments under the Act passed in the Twenty-fourth Year of the Reign of Her present Majesty, intituled An Act to amend the Law relating to the Conveyance of Lands for Charitable Uses, and otherwise to amend the said Law.

[13*th May*, 1864.]

WHEREAS by an Act passed in the twenty-fourth year of the reign of Her present Majesty, chapter nine, time was given for enrolling certain deeds, assurances, and instruments therein referred to until the expiration of twelve calendar months next after the passing of the said Act; and by another Act passed in the twenty-fifth year of Her present Majesty, chapter seventeen, the time for enrolling such deeds, assurances, and instruments was extended to the sixteenth day of May one thousand eight hundred and sixty-four; and by the fourth section of the said second Act it was enacted that the said first Act and the said second Act should be taken to apply as well to cases where certain separate deeds or instruments therein mentioned should be or should have been executed after, as to cases where they might have been executed before the passing of the said first Act: Provided only, that if not then already executed such deed or instrument should be executed within six months next after the passing of the said second Act: and whereas it is expedient further to extend the time for making such enrolment, and otherwise to amend the provisions of the said first and second Acts and the Acts therein recited or referred to: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal,

24 & 25 Vict. c. 9.

25 & 26 Vict. c. 17.

and Commons, in this present parliament assembled, and by the authority of the same, as follows:—

Time for enrolment of deeds and assurances extended to 17th May, 1866 (a).

I. The enrolment of every deed, assurance, and instrument which shall be enrolled before the seventeenth day of May one thousand eight hundred and sixty-six shall, for the purposes of the said recited Acts, or either of them, have the same force and effect which it would have had if such enrolment had taken place within the said time by the said Acts respectively limited.

Act to apply to separate deeds or instruments referred to.

II. This Act shall be taken to apply as well to cases where such separate deed or instrument as is mentioned in the fourth section of the said second Act shall be or shall have been executed after, as to cases where it may have been executed before the passing of the said first Act; provided only, that if not already executed, it be executed within six calendar months next after the passing of this Act.

Provision where original deed is lost.

III. And whereas it may be impossible in some cases to enrol the original deed creating a charitable trust by reason of the same having been lost or destroyed by time or accident, but nevertheless the trusts of such charity may sufficiently appear by some subsequent deed appointing new trustees, or otherwise reciting the trusts created by the original deed: Be it enacted, that in every such case it shall be lawful for any trustee or other person interested in such charitable trust to apply by summons in a summary way to the Court of Chancery for an order authorizing the enrolment of such subsequent deed; and if the court shall be satisfied, by affidavit or otherwise, that such original deed has been lost or destroyed by time or accident, but that the trusts thereof sufficiently appear by such subsequent deed, then it shall be lawful for the said court to make an order

(a) See 29 & 30 Vict. c. 57, sec. 1, p. 108.

authorizing the enrolment of such subsequent deed; and the enrolment thereof shall have the same force and effect as the enrolment of the orginal deed would have had if the same had not been lost or destroyed as aforesaid.

IV. Every full and *bonâ fide* valuable consideration within the meaning of the first section of the said first Act which shall consist either wholly or partly of a rent or other annual payment reserved or made payable to the vendor or grantor, or to any other person, shall for the purposes of the statute passed in the ninth year of the reign of His late Majesty King George the Second, chapter thirty-six, be as valid and have the same force and effect as if such consideration had been a sum of money actually paid at or before the making of such conveyance without fraud or collusion.

Valuable consideration payable as rent to be equivalent to a consideration in money actually paid within the statute 9 Geo. 2, c. 36.

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29 & 30 VICT. CAP. 57.

An Act to make further Provision for the Enrolment of certain Deeds, Assurances, and other Instruments relating to Charitable Trusts.

[30*th July*, 1866.]

WHEREAS an Act was passed in the ninth year of the reign of His late Majesty King George the Second, chapter thirty-six, intituled "An Act to restrain the Disposition of Lands whereby the same become inalienable:" And whereas by a second Act passed in the twenty-fourth year of the reign of Her present Majesty, chapter nine, certain deeds, assurances, and instruments theretofore made were, notwithstanding the first-mentioned Act, made valid where the same, or any separate deed or instrument declaring the charitable uses thereof, had been or should be within the time therein mentioned enrolled in Her Majesty's High Court of Chancery; and by two subsequent Acts respectively passed in the

9 Geo. 2, c. 36.

twenty-fifth year of Her present Majesty, chapter seventeen, and the twenty-seventh year of Her present Majesty, chapter thirteen, the second-mentioned Act was explained and amended, and the time for making enrolments thereunder was extended, and has since expired; and it is expedient that further provision should be made with respect to certain deeds, assurances, and instruments now rendered void for want of compliance with the provisions of the first-mentioned Act:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:—

Any trustee, &c. of any charity may apply to Court of Chancery for order authorizing enrolment of any deed, &c.

I. Any trustee, governor, director, or manager of any charity, or any other person entitled to act in the management of or otherwise interested in any charitable trust, may, by summons in a summary way, and without service thereof upon any person, apply to the Court of Chancery for an order authorizing the enrolment in the court of any deed, assurance, or other instrument whereby any hereditaments of any tenure or any estate or interest therein have or has been or shall be given, granted, or in any way conveyed, settled, or charged for charitable uses, or of any other deed, assurance, or instrument relative to or connected with any charitable trust, and which deed, assurance, or instrument ought to have been enrolled, but has not been enrolled within the time by law limited for that purpose, or (where such deed, assurance, or instrument has been lost or destroyed by time or accident, and the trusts thereof sufficiently appear by some subsequent deed appointing new trustees, or otherwise reciting the trusts created by the original deed, assurance, or instrument) for an order authorizing the enrolment of such subsequent deed.

If court satis-

II. If the court shall be satisfied by affidavit or other-

wise that the deed, assurance, or other instrument conveying or charging the hereditaments, estate, or interest for charitable uses was made really and *bonâ fide* for full and valuable consideration, actually paid at or before the making or perfecting thereof, or reserved by way of rentcharge or other annual payment, or partly paid at or before the making or perfecting of such deed, assurance, or other instrument, and partly reserved as aforesaid, without fraud or collusion, and that at the time of the application to the court possession or enjoyment is held under such deed, assurance, or other instrument, and that the omission to enrol the same in proper time has arisen from mere ignorance or inadvertence, or from the destruction thereof by time or accident, it shall be lawful for the court to make an order authorizing the enrolment in the court of the deed, assurance, or instrument to which the application relates, or of a such subsequent deed, as the case may be, and the same shall thereupon be enrolled accordingly at any time within six calendar months from the date of the order, and no acknowledgment shall be necessary prior to enrolment.

Court may make order authorizing enrolment of deed, &c. was made *bonâ fide* for full and valuable consideration, and omission to enrol arose from ignorance, inadvertence, or accident.

III. Every enrolment made pursuant to an order of the court under this Act shall, notwithstanding anything in the first-mentioned Act contained, have the same force and effect which by the second-mentioned Act, as explained and amended by the two subsequent Acts before mentioned, is given to the enrolment of a deed, assurance, or other instrument, or of a subsequent deed, by the three last-mentioned Acts respectively authorized to be enrolled, and duly enrolled according to the provisions thereof and within the time thereby respectively limited.

Force and effect given to deed, &c. by enrolment.

IV. Provided always, that nothing herein contained shall affect or apply to any deed, instrument, or assurance as to which at the time of any such application to the Court of Chancery any action, suit, or proceeding

Proviso concerning deeds, &c. as to which at time of application to court any

action, &c. shall be pending.

shall be pending for setting aside the same or for asserting any right founded on the invalidity thereof, or any decree or judgment shall have been then already obtained founded on such invalidity.

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25 & 26 VICT. CAP. 89.

An Act for the Incorporation, Regulation, and Winding-up of Trading Companies and other Associations.

[*7th August*, 1862.]

Short title.

I. THIS Act may be cited for all purposes as "The Companies Act, 1862."

PART I.

Mode of forming company.

VI. Any seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association, and otherwise complying with the requisitions of this Act in respect of registration, form an incorporated company with or without limited liability.

Prohibition against certain companies holding land.

XXI. No company formed for the purpose of promoting art, science, religion, charity, or any other like object, not involving the acquisition of gain by the company or by the individual members thereof, shall, without the sanction of the Board of Trade, hold more than two acres of land; but the Board of Trade may, by licence under the hand of one of their principal secretaries or assistant secretaries, empower any such company to hold lands in such quantity and subject to such conditions as they think fit.

LAND TAX.—TABLE OF ACTS (*a*).

1797.	38 Geo. III. c. 5,	grants a land tax for the service of the year 1798.
1798.	38 Geo. III. c. 60,	Sect. 1 makes land tax perpetual, subject to redemption and purchase.
		Sect. 40 authorises investment in the purchase of land tax, of trust monies directed to be laid out in the funds, or in the purchase of land.
1798.	39 Geo. III. c. 6,	extends time limited for redemption of land tax.
		Sect. 31 authorizes application of charitable trust property in redeeming land tax on lands settled to charitable uses, and the charge of the lands with an annuity equal to the income of the property applied.
1799.	39 Geo. III. c. 21,	amends the two last preceding Acts.
1802.	42 Geo. III. c. 116,	repeals certain provisions of the preceding Acts, and creates other powers.
		Sects. 9 and 10 empowers feoffees or trustees for charitable purposes, or trustees of property given for benefit of poor clergy, to contract for redemption of land tax.
		Sects. 18, 19, 20, and 21 give preference in contracting to feoffees and trustees for charitable purposes.
		Sects. 151, 152, and 153 authorize Land Tax Commissioners to contract with other persons where persons having preferential right fail to avail themselves of it.
		Sects. 22, 23, 24, 25, 27, 28, 29, 37, and 38 regulate consideration to be paid for the redemption and purchase.
1803.	43 Geo. III. c. 51,	amend Act of 42 Geo. III.
1805.	45 Geo. III. c. 77,	

(*a*) The great length of these Acts precludes their insertion in the present publication, and it has been considered sufficient to point out their material provisions as above, and to direct attention to two works on the subject—namely, "Miller's (S.) Laws relating to the Land Tax, 1849," and "Davies' Handy-Book of the Land Assessed and Income Tax Laws, 1864."

LAND TAX.—TABLE OF ACTS (*continued*)—

1806.	46 Geo. III. c. 133,	amend Land Tax Acts, and make provisions for exonerating small livings and charitable institutions from land tax.
1809.	49 Geo. III. c. 67,	
1810.	50 Geo. III. c. 58,	
1813.	53 Geo. III. c. 123,	
1813.	53 Geo. III. c. 142, further amends Land Tax Acts	
1814.	54 Geo. III. c. 173,	
1817.	57 Geo. III. c. 100,	

1822. 3 Geo. IV. c. 88, amends the Land and Assessed Taxes Acts, and regulates appointments of Receiver-General.

1831. 1 & 2 Wm. IV. c. 18, transfers duties of Receivers-General to Inspectors of Taxes.

1834. 4 & 5 Wm. IV. c. 60, amends the Land and Assessed Taxes Acts, and consolidates Boards of Stamps and Taxes.

1835. 5 & 6 Wm. IV. c. 20, consolidates certain offices in the collection of stamps and taxes, and amends the laws relating thereto.

1838. 1 & 2 Vict. c. 58, vests power of Land Tax Commissioners for certain purposes in the Commissioners of the Treasury, and authorizes Court of Exchequer to determine disputes as to the division in which lands are to be rated.

TABLE SHOWING THE DUTIES PAYABLE IN RESPECT OF LEGACIES FOR CHARITABLE PURPOSES,

AND THE STATUTES BY WHICH THEY WERE GRANTED.

			£	s.	d.
1780.	20 Geo. III. c. 28.	Stamps payable from and after 1st June, 1780, on receipts for legacies not exceeding £20 . .	0	2	6
		Not exceeding £100 . .	0	5	0
		Exceeding £100 . . .	1	0	0
1783.	23 Geo. III. c. 58.	Additional duties payable from and after 1st August, 1783, of similar amount, and a like additional duty upon every further sum of £100.			
1789.	29 Geo. III. c. 51.	Additional duty (payable from and after 1st August, 1789) where legacy shall amount to £100 . . .	1	0	0
		And upon every further sum of £100 a like additional duty of . .	1	0	0
1796.	36 Geo. III. c. 52.	Repeals preceding duties, and grants a duty of	6 per cent.		
1804.	44 Geo. III. c. 98.	Repeals duties granted by prior Acts (after 10th October, 1804), except duties charged by 20 Geo. III., 23 Geo. III., and 29 Geo. III., which were continued for two years from 10th October, 1804, on legacies derived from persons who died before 27th April, 1796, and grants a duty of	8 per cent.		
1805.	45 Geo. III. c. 28.	On estates of persons dying after date of Act (5th April, 1805), whether arising from personal or real estate	10 per cent.		
1808.	48 Geo. III. c. 149.	Where deceased died before or upon 5th April, 1805	8 per cent.		
		And after 5th April, 1805 .	10 per cent.		
1815.	55 Geo. III. c. 184.	Where testator, &c., died before 5th April, 1805	8 per cent.		
		After 5th April, 1805 . .	10 per cent.		

EXEMPTIONS.

1799. 39 Geo. III. c. 73, sect. 1, enacts, that "no legacy consisting of books, prints, pictures, statues, gems, coins, medals, specimens of natural history, or other specific articles which shall be given or bequeathed to or in trust for any body corporate, whether aggregate or sole, or to the Society of Serjeants' Inn, or any of the Inns of Court or Chancery, or any endowed school, in order to be kept and preserved by such body corporate, society, or school, and not for the purposes of sale, shall be liable to any duty imposed on legacies by any law now in force."

48 GEO. III. CAP. 55.

An Act for repealing the Duties of Assessed Taxes, and granting New Duties in lieu thereof, and certain Additional Duties to be consolidated therewith; and also for repealing the Stamp Duties on Game Certificates, and granting New Duties in lieu thereof, to be placed under the management of the Commissioners for the affairs of Taxes.

[1st *June*, 1808.]

WINDOWS. SCHEDULE A.—EXEMPTIONS FROM THE SAID DUTIES.

Hospitals, &c. Case II. *Any hospital, charity school, or house provided for the reception and relief of poor persons, except such apartments therein as are or may be occupied by the officers or servants thereof which shall severally be assessed, and be subject to the said duties as entire dwelling houses.*

Chapels. Case III. *The windows in any room of a dwelling-house, licensed according to law as a chapel for the purposes of Divine worship and used for no other purpose whatsoever: provided that every such hospital, charity school, house for the reception and relief of poor persons, or room licensed as a chapel as aforesaid, shall be brought into charge by the assessor or assessors, or in their default, by the surveyor or inspector, and shall be stated on the certificate of assessments as such; and on due proof of the fact before the commissioners by the assessors, it shall be lawful for the commissioners for executing the said act to discharge such hospital, charity school, house for the reception and relief of poor persons, and room licensed as a chapel, from the said duties, or such part thereof as is hereby intended to be exempted, in like manner as they are authorized to discharge the assessment on poor persons by this Act, but not otherwise.*

INHABITED HOUSES. SCHEDULE B.—EXEMPTIONS (*a*).

Case IV. *Any hospital, charity school, or house provided for the reception or relief of poor persons.* Hospitals, &c.

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14 & 15 VICT. CAP. 36.

An Act to repeal the Duties payable on Dwelling Houses according to the number of Windows or Lights, and to grant in lieu thereof other Duties on Inhabited Houses according to their Annual Value.

[24*th July*, 1851.]

WHEREAS under and by virtue of an Act of the forty-eighth year of King George the Third, chapter fifty-five, certain duties are now payable in England, Wales, and Berwick-upon-Tweed and in Scotland respectively upon dwelling houses, and are assessed and levied according to the number of windows or lights therein as set forth in the schedule marked (A.) to the said Act annexed: and it is expedient that in lieu thereof the duties on inhabited dwelling houses set forth in the schedule to this Act annexed should be assessed and levied according to the annual value of such dwelling houses: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows: 48 Geo. 3, c. 55.

I. From and after the fifth day of April, one thousand eight hundred and fifty-one, in England, Wales, and the town of Berwick-upon-Tweed, and from and after the term of Whitsunday, one thousand eight hundred and fifty-one in Scotland, in lieu and instead of the said duties so payable as aforesaid, and which are hereinafter Duties granted on inhabited houses as specified in the schedule annexed, in lieu of duties hereinafter repealed.

(*a*) Window duties repealed by 14 & 15 Vict. c. 36, but the exemptions contained in Schedule B. were continued with respect to the House Duty granted under 14 & 15 Vict. c. 36.

repealed, there shall be assessed, raised, levied, collected, and paid unto and for the use of Her Majesty, her heirs and successors, upon inhabited dwelling houses in and throughout Great Britain, the several duties set forth in the schedule to this Act annexed, payable according to the annual value of such dwelling houses, which said schedule shall be deemed and taken to be part of this Act.

Duties granted to be under care of commissioners of inland revenue.

II. The said duties shall be denominated and deemed to be duties of assessed taxes, and shall be under the care and management of the commissioners of inland revenue for the time being; and all powers, provisions, rules, regulations, and directions, fines, forfeitures, pains, and penalties, now in force contained in or enacted by any Act or Acts relating to the duties of assessed taxes, and

Powers and provisions of former Acts to be in force;

also all powers, provisions, rules, regulations, directions, and exemptions, fines, forfeitures, pains, and penalties, contained in or enacted by any such Act or Acts as aforesaid, with reference to the duties on inhabited dwelling houses according to the value thereof, as set forth in the schedule marked (B.) annexed to the said Act of the forty-eighth year of King George the Third, and which were in force in regard to the said last-mentioned duties at the time of the repeal of such duties by an Act of the Session holden in the fourth and fifth years of King William the Fourth, chapter nineteen, except as herein-after excepted, shall severally and respectively be and become in full force and effect with respect to the duties hereby granted, and shall be severally and respectively duly observed, applied, practised, and put in execution in the respective parts of Great Britain for assessing, raising, levying, collecting, receiving, accounting for, and securing the said duties hereby granted, and otherwise in relation thereto, so far as the same are or shall be applicable, and are not repealed or superseded by and are consistent with the express provisions of this Act, as fully and effectually, to all intents and purposes, as if the same powers, provisions, rules, regulations, directions, and exemptions,

fines, forfeitures, pains, and penalties, were particularly repeated and re-enacted in this Act with reference to the said duties hereby granted: excepting always out of this enactment any provisions for or in relation to compositions for the said duties set forth in the said schedule marked (B.), the exemption in case II. of exemptions contained in the same schedule, and all the provisions of an Act of the session holden in the third and fourth years of King William the Fourth, chapter thirty-nine, and of an Act of the session holden in the third and fourth years of Her Majesty, chapter seventeen.

except as hereinprovided.

IV. The duties granted by the said Act of the forty-eighth year of King George the Third, and now payable in England, Wales, and Berwick-upon-Tweed and in Scotland respectively, upon dwelling houses, according to the number of windows or lights therein, as set forth in the schedule marked (A.) to the said Act annexed, shall, at and upon the respective periods appointed for the commencement of the duties granted by this Act, severally cease and determine: save and except as to any of the said duties hereby repealed which, having been assessed or charged, shall not have been collected, levied, recovered, and accounted for, and also as to all arrears of any of the said duties, and all penalties and forfeitures incurred at or before such respective periods, all which said duties and arrears of duties, and penalties and forfeitures, shall respectively be collected, levied, recovered, paid, and accounted for as if this Act had not been passed.

Duties on windows and lights to cease on commencement of the duties granted by this Act;

except those uncollected;

and penalties, &c.

The schedule referred to; containing the duties by this Act made payable upon inhabited dwelling houses in and throughout Great Britain, according to the annual value thereof; that is to say,

For every inhabited dwelling house which, with the household and other offices, yards, and gardens therewith

occupied and charged, is or shall be worth the rent of twenty pounds or upwards by the year,—

Where any such dwelling house shall be occupied by any person in trade who shall expose to sale and sell any goods, wares, or merchandise in any shop or warehouse, being part of the same dwelling house, and in the front and on the ground or basement story thereof;

And also where any such dwelling house shall be occupied by any person who shall be duly licensed by the laws in force to sell therein by retail beer, ale, wine, or other liquors, although the room or rooms thereof in which any such liquor shall be exposed to sale, sold, drunk, or consumed shall not be such shop or warehouse as aforesaid;

And also where any such dwelling house shall be a farmhouse occupied by a tenant or farm servant, and *bonâ fide* used for the purposes of husbandry only,

There shall be charged for every twenty shillings of such annual value of any such dwelling house, the sum of sixpence;

And where any such dwelling house shall not be occupied and used for any such purpose and in manner aforesaid, there shall be charged for every twenty shillings of such annual value thereof, the sum of ninepence.

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5 & 6 VICT. CAP. 35.

An Act for granting to Her Majesty Duties on Profits arising from Property, Professions, Trades and Offices, until the 6th day of April, 1845.

[22*nd June*, 1842.]

Mode of proceeding in order to the payment of

LXI. AND be it enacted, that the person entitled to any of the allowances mentioned in the next preceding rule, which are directed or authorized to be made by

certificate, and which shall not have been made by deduction or abatement from the assessment, shall claim such allowance at any time after the expiration of the year of assessment, before the commissioners for general purposes of the district in which the property charged with the payments and charges mentioned in the said rule shall be situate; and the said commissioners, upon due proof before them that the claimant is entitled to such allowance, shall certify the particulars and amount thereof to the commissioners for special purposes at the head office for stamps and taxes in England, and thereupon the said last mentioned commissioners shall grant an order for the payment of such allowance directed to the receiver-general of stamps and taxes, or to an officer for receipt or collector of the duties granted by this Act, or to a distributor or sub-distributor of stamps, as may be most convenient for the party entitled to such allowance, and such receiver-general or officer as aforesaid is hereby required, on production and delivery to him of such order, to pay the amount of such allowance to the party entitled thereto out of any money in the hands of such receiver-general or officer arising from any duties placed under the management of the commissioners of stamps and taxes, taking the receipt of the party entitled to such allowance for the same, by endorsement on such order.

certain allowances granted under No. V., Schedule (A).

No. VI.—*Allowances to be made in respect of the said Duties in Schedule (A.).*

For the duties charged on any college or hall in any of the universities of Great Britain, in respect of the public buildings and offices belonging to such college or hall, and not occupied by any individual member thereof, or by any person paying rent for the same, and for the repairs of the public buildings and offices of such college or hall, and the gardens, walks, and grounds for recreation repaired and maintained by the funds of such college or hall:

Allowances for colleges and halls in universities;

Hospitals, public schools, almshouses, and literary institutions.

Or on any hospital, public school, or almshouse, in respect of the public buildings, offices, and premises belonging to such hospital, public school, or almshouse, and not occupied by any individual officer or the master thereof, whose whole income, however arising, estimated according to the rules and directions of this Act, shall amount to or exceed one hundred and fifty pounds per annum, or by any person paying rent for the same, and for the repairs of such hospital, public school, or almshouse, and offices belonging thereto, and of the gardens, walks and grounds for the sustenance or recreation of the hospitallers, scholars, and almsmen, repaired and maintained by the funds of such hospital, school or almshouse, or on any building the property of any literary or scientific institution, used solely for the purposes of such institution, and in which no payment is made or demanded for any instruction there afforded, by lectures or otherwise; provided also, that the said building be not occupied by any officer of such institution, nor by any person paying rent for the same:

The said allowances to be granted by the commissioners for general purposes in their respective districts:

Rents of lands belonging to hospitals, public schools, and almshouses, or vested in trustees for charitable purposes.

Or on the rents and profits of lands, tenements, hereditaments, or heritages belonging to any hospital, public school, or almshouse, or vested in trustees for charitable purposes, so far as the same are applied to charitable purposes:

The said last-mentioned allowances to be granted on proof before the commissioners for special purposes of the due application of the said rents and profits to charitable purposes only, and in so far as the same shall be applied to charitable purposes only:

The said last-mentioned allowances to be claimed and proved by any steward, agent, or factor acting for such school, hospital, or almshouse, or other trust for charitable purposes, or by any trustee of the

same, by affidavit to be taken before any commissioner for executing this Act in the district where such person shall reside, stating the amount of the duties chargeable, and the application thereof, and to be carried into effect by the commissioners for special purposes, and according to the powers vested in such commissioners, without vacating, altering, or impeaching the assessments on or in respect of such properties; which assessments shall be in force and levied notwithstanding such allowances.

Duties in Schedule (C.) and rules deemed part of this Act.

LXXXVIII. And be it enacted, that the duties hereby granted, contained in the schedule marked (C.), shall be assessed and charged under the following rules, which rules shall be deemed and construed a part of this Act, and to refer to the said last-mentioned duties, as if the same had been inserted under a special enactment.

Schedule (C.).—*Rules for assessing and charging the Duties under Schedule (C.).*

By whom to be paid.

The said last-mentioned duties shall be paid by the persons and corporations respectively intrusted with the payment of the annuities, dividends, and shares of annuities, therein charged, on behalf of the persons, corporations, companies, or societies entitled thereto, their executors, administrators, successors, or assigns, and shall be assessed by the commissioners hereby authorized or appointed for those purposes; and

To what stock the duty extends.

shall extend to all public annuities whatever payable in Great Britain out of any public revenue in Great Britain or elsewhere, and to all annuities payable in Ireland out of the revenue of the United Kingdom, to or for the use or benefit of any person not resident in Ireland, and also to all dividends and shares of such annuities respectively which shall become payable after the fifth day of April one thousand eight

hundred and forty-two, except in the following cases of exemption from the said duties: viz.—

Stock of savings banks exempted.

2nd. The stock or dividends of any savings bank established or to be established under the provisions of an Act passed in the ninth year of the reign of King George the Fourth, intituled "An Act to consolidate and amend the laws relating to Savings Banks," arising from investments with the commissioners for the reduction of the National Debt; and also the dividends or interest payable by the trustees of any savings bank upon any funds therein deposited belonging to any depositor or to any charitable institution:

Stock of charitable institutions exempted.

3rd. The stock or dividends of any corporation, fraternity, or society of persons, or of any trust established for charitable purposes only: or which according to the rules or regulations established by Act of parliament, charter, decree, deed of trust, or will, shall be applicable by the said corporation, fraternity, or society, or by any trustee, to charitable purposes only, and in so far as the same shall be applied to charitable purposes only; or the stock or dividends in the names of any trustees applicable solely to the repairs of any cathedral, college, church, or chapel, or any building used solely for the purpose of Divine worship, and in so far as the same shall be applied to such purposes, provided the application thereof to such purposes shall be duly proved before the said commissioners for special purposes by any agent or factor on the behalf of any such corporation, fraternity, or society, or by any of the members or trustees.

23 VICT. CAP. 14.

An Act for granting to Her Majesty Duties on Profits arising from Property, Professions, Trades, and Offices.

[*3rd April*, 1860.]

X. No claim for repayment of duty under this Act, or any former Act relating to the Income Tax, shall be allowed unless it shall be made within three years next after the end of the year of assessment to which the claim shall relate.

Repayment must be claimed within three years.

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15 & 16 VICT. CAP. 55.

An Act to extend the Provisions of "The Trustee Act, 1850."

[30*th June*, 1852.]

XIII. THAT every order to be made under the "Trustee Act, 1850," or this Act, which shall have the effect of a conveyance or assignment of any lands, or a transfer of any such stock as can only be transferred by stamped deed, shall be chargeable with the like amount of stamp duty as it would have been chargeable with if it had been a deed executed by the person or persons seised or possessed of such lands, or entitled to such stock; and every such order shall be duly stamped for denoting the payment of the said duty.

All orders made under Trustee Act, 1850, or this Act to be chargeable with the same stamp duty as deeds of conveyance.

22 GEO. II. CAP. 48.

An Act for charging a Duty on Persons whose Property shall be insured against Loss by Fire.

[1782.]

Public hospitals not liable.

II. PROVIDED always, and be it further enacted by the authority aforesaid, that nothing herein contained shall extend, or be construed to extend, to charge or make liable any public hospital to the payment of the rate or duty to be laid by virtue of this Act.

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52 GEO. III. CAP. 102.

An Act for the registering and securing of Charitable Donations.

[*9th July*, 1812.]

WHEREAS charitable donations have been given for the benefit of poor and other persons in England and Wales to a very considerable amount, and many of the aforesaid donations appear to have been lost, and others from the neglect of payment and the inattention of those persons who ought to superintend them, are in danger of being lost, or rendered very difficult to be preserved; be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that a memorial or statement of the real and personal estate, and of the gross annual income, investment, and the general and particular objects of all and every charity and charities, and charitable donations, for the benefit of any poor or other persons in any place in England and Wales,

A memorial of deeds, &c. respecting charitable donations already founded to be registered.

which shall have been founded, established, made, benefited, increased, or secured, together with the names of the respective founders of or benefactors thereto, where known, and also of the person or persons in whose custody, possession, or control, the deeds, wills, and other instruments whereby such charities or charitable donations shall have been founded, established, made, benefited, increased, or secured, may be, and also of the names of the then trustee or trustees, feoffee or feoffees, possessor or possessors of such real or personal estate, shall, from and after six calendar months after the passing of this Act, be registered by such person or persons who shall then be the trustee or trustees, feoffee or feoffees, possessor or possessors thereof, or some or one of such persons, in manner and in the form contained in the schedule to this Act annexed, in the office of the clerk of the peace of the county, or city or town being a county of itself, within which such poor or other persons shall be; and such memorial or statement shall be signed by such person or persons causing the same to be registered and left in the said office of such clerk of the peace, who shall forthwith transmit a duplicate or copy of the same unto the enrolment office of the High Court of Chancery.

The like of charitable donations which may hereafter be founded.

II. And be it further enacted, that wherever any such charity or charitable donations shall be founded, established, made or benefited, increased or secured by any deed, will, or other instrument hereafter to be made or executed by any person or persons, that then a like memorial or statement, according to the directions herein-before contained, shall be registered, and left and transmitted as aforesaid, by such person or persons as are herein-before mentioned, within twelve months after the decease of such person or persons by whom any such will, deed or deeds, or other instrument, shall have been made or executed.

Clerks of the

III. And be it further enacted, that for the purpose of

peace to provide proper books wherein registries shall be made.

such registries of such memorials or statements, the clerk of the peace for the time being of each and every county, or city, or town being a county of itself, or riding within England and Wales, shall, as there shall be occasion, provide proper books of parchment or vellum, wherein such registers shall be made and entered; and every such original memorial or statement, and every such book provided as aforesaid, shall be carefully kept and preserved for public use and inspection in the office to which it shall belong, together with a correct index, to be made from time to time by such clerk of the peace, of such charities and charitable donations, distinguishing each by the name of the original, or first donor or founder thereof, where known, or the appellation or title most generally used for such charity or charitable donations.

Notice to be given in the "London Gazette" if persons to be benefited shall not be wholly within one county.

IV. And be it further enacted, that in case the persons to be benefited by any such charity or charitable donations as aforesaid, shall not be wholly within any one county, then and in such case such clerk of the peace of the county where any such charity or charitable donation shall be registered, shall forthwith notify in the London Gazette the name or title thereof, according to the appellation or title used in the index aforesaid, and the names of the several places wherein the objects of such charity or charitable donations shall be, and the particular or general objects thereof, and also the name of the county wherein such memorial or statement shall have been registered.

If donations shall not be registered, a petition may be presented to the Lord Chancellor, &c. complaining thereof.

V. And be it further enacted, that if any such charity or charitable donation shall not be duly memorialized, stated, and registered according to the provisions of this Act, it shall and may be lawful for any two persons or more, interested in such charity or charitable donation, to present a petition to the Lord Chancellor, Lord Keeper, or Lords Commissioners for the custody of the Great

Seal, or Master of the Rolls for the time being, or the Court of Exchequer, complaining thereof; and they are hereby required to hear such petition in a summary way, and upon affidavits, or such other evidence as shall be produced upon such hearing, to determine the same, and to make such order therein, and with respect to the costs of such application and proceedings, as to him or them shall seem fit, and which order shall be final and conclusive.

No proceedings to decide any right or title.

VI. Provided always, and be it further enacted, that no proceedings under the provisions herein-before mentioned, shall extend or be construed to extend to decide any right or title as to the property that shall be so registered, or as to the persons who shall be entitled, or claim to be entitled, to the benefit thereof, or any interest therein.

Clerk of the peace to make searches, and give copies of registers.

VII. And be it further enacted, that all and every clerk of the peace of the several counties and ridings in England and Wales, shall, as often as required, make searches concerning all memorials and statements directed by this Act to be entered in his or their office as aforesaid, and shall also give copies of the same under his hand, if required by any person whatsoever, who shall tender or be willing to pay him the sum or sums hereinafter directed to be allowed to him for such copies of such memorials or statements as aforesaid.

Allowance to clerk of the peace;

VIII And be it further enacted, that every such clerk of the peace shall be allowed for the registering every such memorial or statement as is by this Act directed, the sum of four shillings, and no more, in case the same do not exceed four hundred words, but if such memorial or statement shall exceed four hundred words, then after the rate and proportion of one shilling an hundred for all the words contained in such entry, and the like fees for the like number of words contained in every copy of any entry given out of the said register, and no more; and for

and to the per-

son inserting notification in the Gazette.

every notification in the London Gazette, the costs of such notification, and the further sum of ten shillings for drawing and inserting the same, and transmitting the duplicate or copy herein-before mentioned unto the enrolment office of the High Court of Chancery, and no more.

Further time to be allowed to register memorial where difficulties occur in preparing the same.

IX. And be it further enacted, that where any difficulty shall occur in making and preparing such memorial or statement as aforesaid, so as to render it necessary to employ any longer time than is allowed by the provisions of this Act for registering such memorial or statement as herein-before is mentioned, it shall and may be lawful for the Court of Quarter Sessions for the county, or city or town being a county of itself, wherein such memorial or statement is intended to be registered, to allow, on application made to them, and on examination of the circumstances, such further time, not exceeding six calendar months, as to such court shall seem necessary to be given for the purpose of duly registering such memorial or statement as herein-before is mentioned.

Costs attending the preparing memorials to be allowed.

X. And be it further enacted, that it shall and may be lawful for the Court of Quarter Sessions of the county, or city or town being a county of itself, wherein such statement or memorial shall have been registered, to allow such reasonable costs and charges attending the preparing and registering, notifying and transmitting such memorial or statement, with reference to the income of the charity or charitable donation, to such person or persons causing the same to be registered, as such court shall think fit; and it shall and may be lawful for such person or persons who shall have caused such memorial or statement to be registered, to deduct out of the income, funds, rents and profits, in his or their hands, of such charity or charitable donation so by him or them memorialized and stated and registered, the sum and sums so allowed, and no more: provided always, that the said Court of Quarter

Sessions shall not allow any sum whatever for and in respect of such costs and charges, unless it shall be stated to them, upon the declaration in writing of the person or persons applying for such allowance, and signed by him or them, that such memorial or statement is to the best of his, her, or their knowledge and belief, true in every respect, and that it doth contain to the best of his, her, or their knowledge and belief, a true and full account of the real and personal estate, annual gross income, investment, and the particular or general objects of the charity or charitable donation of which such memorial or statement shall have been registered, together with the names of the respective donors or benefactors thereto, where known, and also of the person or persons in whose custody, possession, or control, the deeds, wills, and other instruments herein-before mentioned, shall at such time be, and also the names of the trustee or trustees, feoffee or feoffees, possessor or possessors of such real and personal estate: provided always, that none of the provisions herein-before contained shall be construed to extend to any charity or charitable donation not issuing out of or secured upon any lands, tenements or hereditaments, or directed by the founder or donor thereof to be secured thereon, or to be permanently invested in government or any public stocks or funds; nor to any charitable donation whatsoever, which by the direction of the donor thereof, or by the lawful rules of any charitable institution whatsoever, may be wholly or in part expended in and about the charitable purposes for which the same may have been given, at the discretion of the governors, directors, managers, or the trustee or trustees of such charitable institution at any time whatsoever.

Not to extend to any donation not secured upon lands; nor to charitable institutions.

XI. And be it further enacted, that nothing in this Act shall be construed to extend to any hospital, school, or other charitable institution whatsoever, which shall have been founded, improved, or regulated by or under the authority of the King's most excellent Majesty, or any of

Act not to extend to any royal foundations; nor to certain institutions.

his royal predecessors, or of any special Act of parliament thereunto particularly relating; nor to any charitable donation under the superintendence of any such hospital, school, or institution, nor to the governors of the corporation of the charity for the relief of poor widows and children of clergymen, nor to any friendly society, the rules whereof shall have been confirmed according to the provisions of the Act or Acts for the encouragement and relief of friendly societies; nor to either of the Universities of Oxford or Cambridge, nor to any college or hall thereto belonging, or to any charitable bequest, devise, gift, or foundation whatsoever belonging thereto, or under the control, direction, superintendence, or management of the said universities, or either of them, or any college or hall therein respectively; nor to the Radcliffe Infirmary within the University of Oxford; nor to the colleges of Westminster, Eton, or Winchester, or any of them; nor to any cathedral or collegiate church within England and Wales; nor to the Charter House; nor to the Corporation of the Trinity House of Deptford Strond; nor to any funds applicable to charitable purposes for the benefit of any persons of the Jewish nation.

Nor to charitable institutions of Quakers.

XII. Provided always, that nothing in this Act contained shall extend to any charitable foundation or donation which shall have been or shall be given to and for the benefit of any person or persons of the society of people called Quakers, and which shall be under the superintendence and control of persons of that persuasion.

Nor to charitable foundations, the accounts of which are directed to be passed in the Court of Chancery, &c.

XIII. Provided always, and be it further enacted, that nothing in this Act contained shall extend to any charity or charitable donation or foundation, the accounts of the income and expenditure whereof shall have been directed to be annually passed in the High Court of Chancery, nor to any charity or charitable donation or foundation,

the annual gross income whereof shall not exceed forty shillings, and of which the trustee or trustees, feoffee or feoffees, possessor or possessors, some or one of them, shall within six months after the passing of this Act deposit in the hands of the minister of the parish wherein any of the objects of such charity, charitable donation, or foundation shall be, a written memorial or statement in like form as in the schedule hereunto annexed is contained, and which by such minister shall be forthwith deposited in the parish chest.

Divers charities may be stated in the memorial.

XIV. And be it further enacted, that where any body corporate, guild, or fraternity, shall be entrusted with the possession or distribution of divers charities or charitable donations or foundations, or of the rents and profits thereof, that in such cases all such charities, charitable donations, and foundations may be registered and stated in one and the same memorial.

Saving clause.

XV. Saving always to the King's most excellent Majesty, and to all other persons, such power of superintending and regulating charities and charitable establishments, and the property and funds thereof, as they respectively had before the making of this Act.

SCHEDULE TO WHICH THIS ACT REFERS.

A MEMORIAL or statement in pursuance of an Act for the registering and securing of charitable donations; whereby it is declared by the undersigned [*state the name or names of the persons who sign the memorial or statement*] that the real or personal estate [*state this as the case may be*] of the [*state the title or appellation of the charity or charitable donation*] consists of [*state this as the case may be; and if real estate, whether it be in lands, tenements, or hereditaments, and of what tenure, and where the same are situate, or whether of any charge or incumbrance on any lands, tenements, or hereditaments,*

and where situate; and if personal estate, describe the nature of it, and how secured] and the gross annual income arising therefrom amounts to [*state the sum*] and the objects of which charity or charitable foundation are [*state the general or particular objects of the charity*] and which charity or charitable foundation was, according to the best of my [*or*, our, *as the case may be*] knowledge and belief, founded by [*state by whom; and if benefited, increased, or secured by any other person, state the same and by whom*] and the deeds, wills, and other instruments [*state this as the case may be; and if no deeds, wills, or other instruments exist, state the same*] are, to the best of my [*or*, our, *as the case may be*] knowledge and belief, in the custody, possession, or control [*state this as the case may be*] of [*state the name of the body corporate or natural person*] and the trustees, feoffees, or possessors [*state this as the case may be*] of the said real and personal estate [*state this as the case may be*] are, to the best of my [*or*, our, *as the case may be*] knowledge and belief [*state the name of the body corporate or natural person, as the case may be*].

(Signed) A. B.
C. D.
E. F.

Trustee or trustees, feoffees, possessor or possessors of the real or personal estate [*as the case may be*] of the charity or charitable donation hereby memorialized and registered.

43 GEO. III. Cap. 108.

An Act to promote the Building, Repairing, or otherwise providing of Churches and Chapels, and of Houses for the Residence of Ministers, and the providing of Church Yards and Glebes.

[27*th July*, 1803.]

Whereas a sufficient number of churches and chapels for the celebration of divine service, according to the rites and ceremonies of the United Church of England and Ireland, and of mansion houses with competent glebes for the residence of ministers officiating in such churches and chapels, is necessary towards the promotion of religion and morality: and whereas the same are either wholly wanting or materially deficient in many parts of England and Ireland: and whereas many well-disposed persons would be desirous of contributing towards the supply of such defects, if they were enabled so to do in the manner herein-after directed: may it therefore please your majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that all and every person and persons having in his or their own right any estate or interest in possesion, reversion, or contingency, of or in any lands or tenements, or of any property of or in any goods or chattels, shall have full power, licence, and authority, at his and their will and pleasure, by deed inrolled in such manner, and within such time, as is directed in England by the statute made in the twenty-seventh year of the reign of king Henry the Eighth, and in Ireland by the statute made in the tenth year of the reign of king Charles the First, for inrolment of bargains and sales, or by his, her, or their last will or testament

Persons by deed or will may give lands not exceeding five acres, or goods and chattels not exceeding £500, for the purposes of this Act.

in writing duly executed according to law, such deed, or such will or testament, being duly executed three calendar months at least before the death of such grantor or testator, including the days of the execution and death, to give and grant to and vest in any person or persons, or body politic or corporate, and their heirs and successors respectively, all such his, her, or their estate, interest, or property in such lands or tenements, not exceeding five acres, or goods and chattels, or any part or parts thereof, not exceeding in value five hundred pounds, for or towards the erecting, rebuilding, repairing, purchasing, or providing any church or chapel where the liturgy and rites of the said United Church are or shall be used or observed, or any mansion house for the residence of any minister of the said United Church officiating, or to officiate in any such church or chapel, or of any out-buildings, offices, churchyard, or glebe, for the same respectively, and to be for those purposes applied, according to the will of the said benefactor in and by such deed inrolled, or by such will or testament executed as aforesaid expressed, the consent and approbation of the ordinary being first obtained, and in default of such direction, limitation, or appointment, in such manner as shall be directed and appointed by the patron and ordinary, with the consent and approbation of the parson, vicar, or other incumbent; and such person and persons, bodies politic and corporate, and their heirs and successors respectively, shall have full capacity and ability to purchase, receive, take, hold, and enjoy, for the purposes aforesaid, as well from such persons as shall be so charitably disposed to give the same, as from all other persons as shall be willing to sell or alien to such person or persons, bodies politic or corporate, any lands or tenements, goods, or chattels, without any licence or writ of *Ad quod damnum*, the statute of mortmain, or any other statute or law to the contrary notwithstanding: provided always, that this Act or anything therein contained, shall not extend to enable any person or persons being within age, or of non-sane

But such powers not to extend to persons within

memory, nor women covert without their husbands, to make any such gift, grant, or alienation; anything in this Act contained to the contrary in anywise notwithstanding. age, insane, or femes covert.

II. Provided also, and it is hereby further enacted, that no more than one such gift or devise shall be made by any one person, and that if any such gift or devise as aforesaid shall happen to exceed five acres in lands or tenements, or the value of five hundred pounds in goods and chattels, every such gift or devise shall be good and valid to the extent aforesaid; and it shall be lawful for the Lord Chancellor for the time being, on petition, to make order for reducing every such gift or devise to and within the said limits, and for allotting such specific five acres, and if occasion should require, such specific goods and chattels as in his judgment shall be most convenient, and to make such further order touching the premises as to him shall appear just and reasonable. Only one such gift shall be made by one person, and where it exceeds five acres or 500*l.*, the Chancellor may reduce it.

III. Provided also, that no glebe containing upwards of fifty acres, shall be augmented with more than one acre under or by virtue of this Act, but that the excess, if any given or devised for the purpose of such augmentation, shall be reduced in manner aforesaid, by the said Lord Chancellor, and such order thereupon shall be by him made as herein-before is directed in the case of an excess beyond five acres. No glebe upwards of fifty acres shall be augmented with more than one acre.

IV. And whereas it often happens that small plots of land held in mortmain lie convenient to be annexed to some such church or chapel, or house of residence, as aforesaid, or to some church yard, or curtilage thereto belonging, or convenient to be employed as the site of some such church or chapel, or house to be hereafter erected, and for the necessary and commodious use and enjoyment thereof, and that they might be so employed to the advantage of the public, and without detriment to the Plots of land not exceeding one acre held in mortmain, lying convenient to be annexed to some church, &c., may be granted, either by exchange or benefaction, for that purpose.

proprietors thereof, if they were enabled to give and grant the same for the purposes aforesaid; be it therefore further enacted, that it shall be lawful for every body politic or corporate, sole or aggregate, by deed inrolled as aforesaid, with or without confirmation, as the law may require, to give and grant either by way of exchange or benefaction, any such small plot of land not exceeding one acre, to any person or persons, body politic or corporate, his and their heirs and successors respectively, to be held, used, and applied for the purposes aforesaid; and such last-mentioned person and persons, bodies politic and corporate, and their heirs and successors respectively, shall have full capacity and ability, with consent of the incumbent, patron, and ordinary, to take, hold, and enjoy such small plot of land for the purposes aforesaid, without any licence or writ of *Ad quod damnum*, the statute of mortmain, or any other Act or law to the contrary notwithstanding.

Accommodation to be provided for persons resorting to church, &c.

V. Provided also, and it is hereby further enacted and declared, that in every parochial church or chapel hereafter to be erected ample provision shall be made for the decent and suitable accommodation of all persons, of what rank or degree soever, who may be entitled to resort to the same, and whose circumstances may render them unable to pay for such accommodations.

Rights of giving or devising not affected.

VI. Provided also, that nothing in this Act contained shall be construed to take away or abridge any right of giving or devising which already exists in any person whatsoever.

58 GEO. III. Cap. 45.

An Act for Building and promoting the Building of additional Churches in Populous Parishes.

[30*th May*, 1818.]

Commissioners may accept sites for churches to be devoted to ecclesiastical purposes.

XXXIII. And be it further enacted, that it shall be lawful for the said commissioners to accept and take any building or buildings fit to be used for or to be converted into such additional churches or chapels, and also any lands, tenements, and hereditaments proper for sites of additional churches or chapels, not exceeding in quantity in any one place what may be sufficient for building of a church or chapel, providing a churchyard, and making a proper and sufficient access or approach thereto, from any persons willing to give the same; and every such site, when conveyed to the said commissioners, and the church erected thereupon, and notice thereof given to the Bishop of the diocese, shall become for ever thereafter devoted to ecclesiastical purposes only, in order that the same may be consecrated by the Bishop to public worship according to the rites of the United Church of England and Ireland as by law established; and it shall also be lawful for the said commissioners to accept and take from any person willing to give the same, any house, garden, and appurtenances, not exceeding ten acres in the whole, for the residence of the spiritual person serving such church or chapel, or any land not exceeding the said ten acres in quantity, for erecting such house and appurtenances and making such garden, and the same shall (immediately upon or after the consecration of such church or chapel) become and be the house and glebe belonging to such church or chapel, and vest in the incumbent for the time being as such.

Bodies politic

XXXVI. And be it further enacted, that it shall be

empowered to sell and convey sites.

lawful for all bodies politic, corporate, or collegiate, corporations aggregate or sole, tenants for life or in tail, husbands, guardians, trustees, and feoffees in trust, committees, executors and administrators, and all other persons and trustees whomsoever, not only for or on behalf of themselves, their heirs and successors, but also for and on behalf of *cestui que trusts*, whether infants, issue unborn, lunatics, idiots, femes covert, or other person or persons, and to and for all femes covert, who are or shall be seised, possessed of, or interested in their own right, and for every other person or persons whomsoever who shall be seised, possessed of, or interested in any lands, grounds, and hereditaments which shall be set out and ascertained for any such site, to contract for, sell, and convey, or, if copyhold, to enfranchise, the same and every part thereof, unto the said commissioners, under the provisions of this Act; and all such contracts, agreements, sales, conveyances, and assurances shall be valid and effectual in the law to all intents and purposes whatsoever; any law, statute, usage, or custom to the contrary thereof in anywise notwithstanding; and all bodies politic, corporate, or collegiate, and all persons whomsoever, so conveying as aforesaid, are hereby indemnified for or in respect of any such sale which he, she, or they, or any of them, shall respectively make by virtue or in pursuance of this Act

XLIV (*a*).

When less than 200*l.*, and exceeding 20*l.*

XLV. Provided always, and be it further enacted, that if any money so agreed or awarded to be paid for any lands, tenements, or hereditaments purchased, taken, or used for the purposes aforesaid, and belonging to any

(*a*) Sect. 39 of this Act provides for satisfaction being made, and for the settlement of the price by a jury in case of dispute, as directed by sect. 40; but these sections are not material to the present publication.

Sect. 44 provides for the investment of any compensation amounting to or exceeding £200, in the name of the Accountant-General of the Court of Chancery. But see 8 & 9 Vict. c. 70, s. 19, *post*, p. 146.

corporation, or to any person or persons under disability or incapacity as aforesaid, shall be less than the sum of two hundred pounds, and shall exceed the sum of twenty pounds, then and in all such cases the same shall, at the option of the person or persons for the time being entitled to the rents and profits of the lands, tenements, or hereditaments so purchased, taken, or used, or of his, her, or their guardian or guardians, committee or committees, in case of infancy or lunacy, to be signified in writing under their respective hands, be paid into the Bank of England in the name and with the privity of the said Accountant-General of the Court of Chancery, and be placed to his account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same shall be paid, at the like option, to three trustees, to be nominated by the person or persons making such option, and approved of by three or more of the said commissioners, such nomination and approbation to be signified in writing under the hands of the nominating and approving parties, in order that such principal money, and the dividends arising thereon, may be applied in manner herein-before directed, so far as the case be applicable, without obtaining or being required to obtain the direction or approbation of the Court of Chancery.

When less than 20*l.*

XLVI. Provided always, and be it further enacted, that where such money so agreed or awarded to be paid as next before mentioned shall be less than twenty pounds, then and in all such cases the same shall be applied to the use of the person or persons who would for the time being have been entitled to the rents and profits of the lands, tenements, or hereditaments so purchased, taken, or used for the purposes of this Act, as the said commissioners, or any three or more of them, shall think fit, or in case of infancy or lunacy, then to his, her, or their guardian or guardians, committee or committees, and to and for the use and benefit of such person or persons so entitled respectively.

59 GEO. III. CAP. 134.

An Act to amend and render more effectual an Act passed in the last Session of Parliament, for Building and promoting the Building of additional Churches in Populous Parishes.

[13*th July*, 1819.]

XV (*a*).

Powers of recited Act as to purchasing lands for building churches, extended to lands for additional churchyards.

XXXVII. AND be it further enacted, that all the powers and provisions of the said recited Act or of this Act, which authorize or relate to the grant, sale, conveyance, purchase, and re-sale of any lands, tenements, or hereditaments, from or in the name of or on behalf of His Majesty, or from any bodies politic, corporate, or collegiate, corporations aggregate or sole, tenants for life or in tail, husbands, guardians, trustees, and feoffees in trust, committees, executors, and administrators, *cestui que trusts*, infants, lunatics, idiots, femes covert, or any other person or persons whomsoever, to or by the said commissioners, for the purpose of building any additional churches or chapels, or the issuing, advancing, levying, or raising, or borrowing or taking up at interest, of any money for any such purpose, shall be and are hereby declared to be extended to and be applicable in all respects, *mutatis mutandis*, for the grant, sale, conveyance, purchase, or re-sale of any lands, tenements, or hereditaments which may be necessary for enlarging any churchyard or burial ground, or for making any new burial ground and approaches thereto, under the provisions of this Act, and for the issuing, advancing, levying, and raising, or borrowing and taking up at interest of any money which may be required for any of those purposes, and for repaying the same by instalments or otherwise, in like manner as

(*a*) Sect. 15 of this Act, being similar to sect. 15 of 3 Geo. 4, c. 72, is not printed here; but see p. 144.

if all such powers and provisions had been fully repeated and re-enacted in this Act.

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3 GEO. IV. CAP. 72.

An Act to amend and render more effectual Two Acts passed in the Fifty-eighth and Fifty-ninth Years of His late Majesty, for Building and promoting the Building of additional Churches in Populous Parishes.

[22*nd July*, 1822.]

WHEREAS an Act passed in the fifty-eighth year of the reign of His late Majesty, intituled "An Act for Building and promoting the Building of additional Churches in Populous Parishes:" and whereas another Act passed in the fifty-ninth year of the reign of His late Majesty, intituled "An Act to amend and render more effectual an Act passed in the last session of parliament, for Building and promoting the Building of additional Churches in Populous Parishes:" and whereas it is expedient and necessary that some of the provisions of the said recited Acts should be amended, and other provisions thereof explained and enlarged, and that further and additional provisions should be made for rendering the said two recited Acts more effectual; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall be lawful for the master-general and principal officers of His Majesty's ordnance, and also for the comptroller of the barrack department, and also for the principal officers of any other public department, having or holding any messuages or buildings, or any lands, grounds, tenements, or hereditaments, for and on behalf of His Majesty, for the public use of any such department, by any grant or conveyance, signed by the master-general or any two of the

58 Geo. 3, c. 45.

59 Geo. 3, c. 134.

Ordnance and other public departments, and all corporations, may give messuages, lands, &c., for sites for churches, &c.

principal officers of the ordnance department; or by any grant or conveyance, signed by the comptroller of the barrack department; or by any grant or conveyance, signed by any one or more of the principal officers of any such other public department as aforesaid, and countersigned, as to all such last-mentioned grants or conveyances, by any three or more of the commissioners of His Majesty's treasury of the United Kingdom of Great Britain and Ireland; and it shall also be lawful for any and every body politic, corporate, and collegiate, and corporation aggregate or sole, or for any trustees, guardians, commissioners, or other persons having the control, care, or management of any hospital, schools, charitable foundations, or other public institutions, by any grant or conveyance signed by or under the seal of such body or corporation respectively, to give, grant, and convey any messuages, buildings, lands, grounds, tenements, or hereditaments respectively; and if any such messuages, buildings, lands, grounds, tenements, or hereditaments respectively shall be copyhold at the time of any such gift, grant, or conveyance, in any case in which the lord is willing to enfranchise the same; to be used as sites for churches or chapels, or for enlarging sites of churches or chapels; or for church or chapel yards or cemeteries, or for enlarging sites for church or chapel yards or cemeteries; or for parsonages or residences for ecclesiastical persons; and all such gifts, grants and conveyances shall be made to the commissioners, or such other person or persons as shall be specified by the said commissioners, under the said recited Acts and this Act, to be used for the purposes thereof; and all such gifts and grants may be made and given without any valuable consideration whatever; and all conveyances and assurances made for carrying any such gifts or grants into effect shall be valid and effectual in the law to all intents and purposes whatsoever, any law, statute, usage, or custom to the contrary thereof in anywise notwithstanding; and all bodies politic, corporate, or collegiate, and all

persons whosoever, so giving, granting, and conveying as aforesaid, are hereby indemnified for or in respect of any such gift, grant, conveyance, or enfranchisement which he, she, or they, or any of them, shall respectively make or convey by virtue of or in pursuance and for the purposes of the said recited Acts and this Act.

Commissioners may, in case of division of parishes, apportion charitable gifts and debts (a).

XI. *And be it further enacted, that it shall be lawful for the said commissioners, in every case in which they shall be of opinion that it will be expedient to divide, or in which the said commissioners shall have divided, any parish or place into two or more distinct and separate parishes, district parishes or chapelries, for ecclesiastical purposes, under the provisions of the said recited acts, to apportion, if the commissioners shall in their discretion think it expedient, among such separate divisions of any such parish or place so made separate or district parishes or chapelries for ecclesiastical purposes, any charitable bequests or gifts which shall have been made or given to any such parish or place or the produce thereof; and in any such case to direct that the distribution of the proportions of such bequests or gifts, or the produce thereof, as shall be so apportioned to any such separate divisions of any such parish, shall be made and distributed by the spiritual person serving the church or chapel of any such separate divisions, or the church or chapel wardens or select vestry of any such separate divisions, either jointly or severally, as the commissioners may in their discretion (regard being had to the nature of the bequest or gift and the application thereof) think expedient; and also to apportion among such separate divisions any debts which may have been before the period of such apportionment contracted or charged upon the credit of any church rates in such parish or place, regard being had in all such apportionments to the circumstances of such parish or place, and of the respective divisions thereof so made separate and distinct for ecclesiastical purposes as aforesaid; and all*

(a) Repealed, 8 & 9 Vict. c. 70, sect. 22, *post*, p. 147.

such apportionments shall be registered in the registry of the diocese in which the parish or place shall be locally situate, and duplicates thereof shall be deposited with the churchwardens of each such separate districts as aforesaid, in respect of, or in relation to which any such apportionments as aforesaid shall have been made.

Bodies politic, &c., may give up rights of patronage and endowments and emoluments held by them in trust, to enable the commissioners to establish district churches.

XV (*b*). And be it further enacted, that it shall be lawful for all bodies politic, corporate, or collegiate, corporations aggregate or sole, tenants for life or in tail, husbands, guardians, trustees, and feoffees in trust, committees, executors, and administrators, and all other persons and trustees whomsoever, not only for or on behalf of themselves, their heirs and successors, but also for and on behalf of *cestui que trusts*, whether infants, issue unborn, lunatics, idiots, femes covert, or other person or persons, and to and for all femes covert who are or shall be possessed of or entitled to or interested in their own right, and for every other person whomsoever who shall be possessed of or entitled to or interested in any right of patronage or of presentation or appointment to any benefice, donative, perpetual curacy, or of any spiritual person to any church or chapel, or the performance of any ecclesiastical duties in any church or chapel, or for the trustees of any endowments or emoluments for the use of any church or chapel, or the incumbent thereof, or spiritual person serving the same, to surrender any such right of patronage, presentation, or appointment, endowments or emoluments, or to enter into or make any agreement relating thereto with the said commissioners and the bishop of the diocese, and to attach any contiguous division of any parish or place, with consent of the patron and incumbent of the parish or place, to any such chapel, for the purpose of better enabling the said commissioners to convert any such church or chapel into the church or parochial chapel or chapel of ease of a district parish or chapelry, and to convert any chapelries

(*b*) Sect. 15 of 59 Geo. 3, c. 134, being similar to this section, is not printed.

or other divisions into districts of separate parishes for ecclesiastical purposes; anything contained in any Act or Acts of parliament, or in any deed or deeds, or any trusts relating thereto, respectively, to the contrary notwithstanding (*a*).

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1 & 2 VICT. CAP. 107.

An Act to amend and render more effectual the Church Building Acts.

[15*th August*, 1838.]

Extending powers, &c., given by 58 Geo. 3, c. 45, as to conveying lands.

IX. And be it enacted, that all the powers and authorities given and conferred by the said Act passed in the fifty-eighth year of His Majesty King George the Third, intituled an Act for the building and promoting the building of additional churches in populous parishes, for enabling the bodies politic and persons therein mentioned to convey, and the commissioners to take, land for the sites of churches and chapels, shall extend to the transfer, by sale or exchange only, of land for a site for a house of residence of any incumbent, provided the same do not exceed five acres.

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3 & 4 VICT. CAP. 60.

An Act to further amend the Church Building Acts.

[7*th August*, 1840.]

Commissioners may apply land to ecclesiastical purposes, or to parochial or charitable uses.

XIX (*a*). And be it further enacted, that in every case in which any grant shall have been or shall be made of any land or ground to the said commissioners for any of the purposes of the said recited Acts or any of them, either for a valuable consideration being paid for the same, and in which the said commissioners shall determine to apply a part only of such land or ground to any of the purposes

(*a*) Sect. 34 of 3 Geo. 4, c. 72, being similar to section 19 of 3 & 4 Vict. c. 60, is not printed.

of the said recited Acts or any of them, it shall be lawful for the said commissioners, and they are hereby authorized and empowered, with the consent of the grantor or grantors or donor or donors (as the case may be) of such land or ground, or of his, her, or their heirs or successors, (which consent such grantor or grantors, or donor or donors, and his, her, or their heirs and successors, whether he, she, or they shall or shall not be under any legal or equitable disability or incapacity whatsoever to give such consent, is and are hereby fully authorized and empowered to give accordingly,) to apply any part of such land or ground which shall not have been or shall not be applied by the said commissioners for the purposes of the said recited Acts, or of any of them, to any other ecclesiastical purposes, either as glebe or otherwise, for the use of the incumbent or minister of the parish, place, or district in which such land or ground is situate, or for the purpose of any parochial or charitable school or any other charitable or public purpose relating to any such parish or place.

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8 & 9 VICT. CAP. 70.

An Act for the further Amendment of the Church Building Acts.

[31*st July*, 1845.]

The purchase-money of lands sold under the provisions of recited Acts need not be paid into Bank of England, though it may amount to or exceed £200, but may be paid to trustees.

XIX. And be it enacted, that anything in the hereinbefore recited Acts or any of them to the contrary notwithstanding, it shall not be necessary to pay into the Bank of England any sums of money to be paid for any lands or hereditaments to be purchased or acquired by virtue of such Acts or any of them, although the same may amount to or exceed two hundred pounds (unless Her Majesty's said commissioners shall require such sums to be paid into such bank), but the same may be invested in the names of trustees, as in the said Act is provided in the cases when the amount thereof shall be under the sum of two hundred pounds; and in any declaration of

trust to be made of any such monies the said commissioners may make such special provisions for the investment of such monies, and the appointment of new trustees thereof, or otherwise, as they shall think fit.

Apportionment of bequests, &c., and also of charges to be made by the Court of Chancery.

XXII. And be it enacted, that where Her Majesty's said commissioners shall have already formed or shall hereafter form any distinct and separate parish, district parish, or district chapelry, under the provisions of the herein-before recited Acts, or any of them, or this Act, out of any parish or extra-parochial place, it shall be lawful for the Court of Chancery, anything in the herein-before recited Acts to the contrary notwithstanding, on a petition being presented to the said court by any two persons resident in any such parish or extra-parochial place, (such petition to be presented, heard, and determined according to the provisions of an Act passed in the fifty-second year of the reign of His late Majesty King George the Third, intituled "An Act to provide a summary Remedy in cases of Abuses of Trusts created for charitable Purposes") to apportion between the remaining part of such parish or place and the distinct and separate parish, or district parish, or district chapelry, any charitable devises, bequests, or gifts which shall have been made or given to or for the use of any such parish or extra-parochial place, or the produce thereof, and in any such case to direct that the distribution of the proportions of such devises, bequests, or gifts, or the produce thereof, as shall be so apportioned, shall be made and distributed by the incumbent or spiritual person serving the church, or by the churchwardens of any such distinct and separate parish, district parish, or district chapelry, either jointly or severally, as the said Court of Chancery may think expedient; and it shall also be lawful for the said Court of Chancery to apportion between the remaining part of such parish or place as aforesaid, and such separate divisions or districts, any debts or charges which may have been before the period of such apportion-

52 Geo. 3, c. 101.

ment contracted or charged upon the credit of any church rates in such parish or place; and all such apportionments shall be registered in the registry of the diocese in which such parish or place shall be locally situate, and duplicates thereof shall be deposited with the churchwardens of such parish or place, and of each such division or district as aforesaid, and in all such cases the costs shall be at the discretion of the said court; and such apportioned debts or charges shall be raised and paid by the parish or place in which they may be apportioned in such and the like manner as the entirety was to be raised and paid, or in such manner and under such provisions and conditions as the said court shall direct, and when any securities may have been given for the same the court may order new securities to be given for the apportioned debts by such persons and bodies, and in all respects as the said court may direct, and all securities shall be valid and binding; and the powers and authorities given to the said commissioners by the hereinbefore recited Act passed in the third year of the reign of His late Majesty King George the Fourth, with respect to the apportionment by them of such devises, bequests, gifts and charges, shall, after the passing of this Act, with respect to the future exercise of such powers and authorities, cease and determine (*a*).

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1 & 2 GEO. IV. CAP. 92.

An Act to authorize the Exchange of Lands, Tenements, or Hereditaments, subject to Trusts for Charitable Purposes, for other Lands, Tenements, or Hereditaments.

[10*th July*, 1821.]

WHEREAS lands, tenements, or hereditaments, subjected to trusts for charitable purposes, may be in some

(*a*) By 19 & 20 Vict. c. 55, the powers of the Church Building Commissioners were transferred to the Ecclesiastical Commissioners for England.

cases exchanged for other lands, tenements, or hereditaments, so as to benefit the objects of the charity: may it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act it shall and may be lawful for any person or persons, body politic or corporate, in whom any lands, tenements, or hereditaments shall be vested, subject to any trust for any charitable purpose, to grant and convey to any person or persons, body politic or corporate, and to his, her, or their heirs, successors, and assigns, or otherwise, as he, she, or they shall direct or appoint, any such lands, tenements, or hereditaments, in exchange for any other lands, tenements, or hereditaments, under and according to the several restrictions, declarations, and provisions hereinafter expressed, and not otherwise.

Persons in whom lands, &c., are invested may exchange premises.

II. And be it further enacted, that whenever it shall be thought advisable by the trustees or trustee of any lands, tenements, or hereditaments, subject to any trust for any charitable purpose, to exchange the same, or any parts or part thereof, for any other lands, tenements, or hereditaments, application shall be made to the bishop of the diocese in which any such lands, tenements, or hereditaments, subject to any trust for charitable purposes, and so proposed to be exchanged, shall be situate, stating the objects of the charity, the manner in which such charity lands, tenements, or hereditaments are become vested in such trustees or trustee, and for what reasons it may be fit and proper that any such exchange should be made, and what benefit will be derived to the objects of the charity by means of such exchange, which statement shall be verified on oath before one of His Majesty's justices of the peace for the county, riding, division, or place where such lands shall be situate; and thereupon

Application to be made to the bishop of the diocese, who may issue a commission to ascertain whether an exchange will be beneficial to the charity.

it shall be lawful for such bishop to direct such inquiries to be made as he may think proper, and to require such information to be given to him as he may think necessary, previous to his issuing such commission, as herein-after mentioned; and in case such bishop shall be satisfied that reasonable ground has been laid before him to warrant his issuing such commission, then and in such case such bishop shall issue a commission, under his episcopal seal, directed to four or more fit and proper persons, two of whom at the least shall be beneficed clergymen, and one of whom shall be a barrister-at-law of at least five years standing, and by such commission the commissioners therein named, or any three of them, one of whom shall be a beneficed clergyman and one such barrister as aforesaid, shall be authorized and required to inquire whether such proposed exchange will be beneficial to the objects of the trust, to which the charity lands, tenements, or hereditaments so proposed to be exchanged shall be subject, and for what reason or reasons such exchange will be beneficial to the charity; and for the purpose of such inquiry, such commissioners shall examine upon oath (which oath they are hereby empowered to administer) all persons who may be brought before them for that purpose, and shall require the parties applying for such exchange to bring before them any other persons to be examined upon oath touching any matters which such commissioners may deem necessary for their information; and such commissioners shall also require all deeds, papers, and writings, which they may deem necessary for their information, to be also laid before them, and shall direct such surveys, maps, and plans to be made of the lands proposed to be given and taken in exchange, as they may think proper; and shall cause such lands, tenements, and hereditaments respectively, and the timber and trees on such lands respectively, and rights of common, and all other rights belonging thereto, to be valued, so as clearly to ascertain whether the proposed exchange will be permanently

Of whom the commission shall consist.

Commissioners to examine on oath, and may require production of deeds, and direct surveys to be made, and certify to the bishop the matters that shall arise.

beneficial to the charity or not, and if permanently beneficial, for what reason it will be so beneficial, and whether such exchange is proposed for the convenience of the charity, or for the convenience of any other person or persons, body politic or corporate, and whether the terms upon which the exchange is proposed to be made are the best which can reasonably be obtained for the benefit of the charity; and such commissioners shall also inquire into the title to the lands, tenements, or hereditaments proposed to be given in exchange for the benefit of such charity, so as to enable the bishop, on the return of such commission, to judge of the propriety of allowing such exchange to take place; and such commissioners shall thereupon certify to the bishop the several matters which shall be made to appear to them, together with the surveys and other evidence laid before them, closed up, under their hands and seals, which shall be deposited with the registrar of the diocese.

Commissioners to take the following oath.

III. And be it further enacted, that before such commissioners shall proceed to execute such commission, they shall respectively take the following oath:

"I A. B., one of the commissioners named in a commission [*describing the commission,*] do swear, that I will faithfully do and execute all the matters by the said commission required to be done by me, and a true report make to the best of my ability, as by such commission required. So help me GOD."

Which oath shall be administered by one of the said commissioners, to any other or others of them, and shall be certified to the bishop, together with the other proceedings under such commission.

The bishop may lay the proceedings of the commissioners before counsel.

IV. And be it further enacted, that upon the return of such commission it shall be lawful for the bishop to examine the proceedings under the same, and, if he shall see fit, to direct the same to be laid before some counsel

learned in the law for his opinion and advice thereupon, and also to direct the title to the lands proposed to be given in exchange to the charity to be examined in such manner as he shall think fit; and if he shall think fit, to cause the same to be laid before counsel learned in the law for his opinion thereon; and in case the said bishop shall not be satisfied with the return made by such commissioners, it shall be lawful for him to issue a new commission or new commissions, directed to the same or other commissioners, to the end that he may be fully satisfied of the propriety of such proposed exchange; and such new commission or commissions shall be executed and returned, and the return or returns thereto deposited with the registrar of the diocese, as before directed with respect to the first commission; and if the said bishop shall be satisfied, upon the return of the commission or commissions so to be issued by him, or by such other and further information as he shall obtain as aforesaid, that such proposed exchange is proper and beneficial to the charity, it shall be thereupon lawful for him to signify his approbation of such exchange, by signing and sealing with his episcopal seal two parts of the deed of bargain and sale herein-after mentioned; and it shall be lawful for the trustees or trustee of the charity lands, tenements, or hereditaments proposed to be exchanged, by deed of bargain and sale, inrolled in the High Court of Chancery within six calendar months after the date thereof, to convey the lands, tenements, or hereditaments to be given by them in exchange, to the person or persons, bodies politic or corporate, to whom the same shall be directed to be conveyed; and by the same deed the lands, tenements, or hereditaments, proposed to be given to the charity in exchange, shall also be conveyed to the uses of such charity, and such deed shall be acknowledged by the person or persons making the conveyance of such lands, tenements, or hereditaments, to the uses of such charity, for the purpose of enrolment; and two parts of such deed shall be prepared and executed, and a memorandum of

A new commission may be issued.

Approbation to be signified by signing and sealing.

Conveyance to be made in manner herein mentioned.

the inrolment shall be indorsed on each part; and both parts of such deed, after the same shall have been inrolled as aforesaid, shall be produced to the bishop, and a transcript of such deed, and of the memorandum of inrolment, shall be entered in the registry of the diocese; and the bishop shall thereupon, by writing under his hand, indorsed on each part of such deed, authorize the delivery of possession, according to the terms of such deed, of the lands before belonging to the charity, and so conveyed in exchange; and the delivery of possession to the trustees or trustee of the charity, of the lands, tenements, or hereditaments so conveyed to them in exchange, and the execution of both parts of such deed by the several parties thereto, and the signing of such authority for delivery of possession, shall be attested by two or more credible witnesses, which attestation or attestations shall be indorsed on both parts of such deed; and the attestation of the execution of such deed by the trustees or trustee of the charity lands, tenements, or hereditaments thereby conveyed, shall express that both parts of such deed were signed by the bishop before the execution thereof by such trustees or trustee; and a transcript of such authority for delivery of possession, and of such several attestations as aforesaid, shall be entered in the registry of the diocese, and one part of such deed shall remain with such trustees or trustee, for the benefit of the charity, and the other part shall be delivered to the person or persons, body politic or corporate, to whose use the charity lands, tenements, or hereditaments shall be thereby conveyed in exchange.

Deeds when inrolled to be produced to the bishop, and a transcript thereof entered in the registry of the diocese.

V. Provided also, and be it further enacted, that before any such commission shall issue to make inquiry touching any exchange intended to be made under the provisions of this Act, three months previous notice shall be given of the intention to propose such exchange, by inserting the particulars, extent, and situation, and the tenure of the lands, tenements, or hereditaments respectively proposed

Before issuing commission three months' notice to be given in newspapers, &c., stating particulars, &c.

to be given and taken in exchange, for three successive weeks in some one and the same newspaper generally circulating in that part of the country where the lands, tenements, or hereditaments proposed to be exchanged shall be situated; and also by affixing such notice in writing on a conspicuous part of the door of the church or chapel of each parish or chapelry wherein such lands, tenements, or hereditaments, or any part thereof, shall be situated, on three successive Sundays whereon Divine service shall be performed, and shortly before the commencement of such service in each church or chapel.

Vacancies of trustees to be filled up prior to any application for an exchange, unless when there are six or more trustees.

VI. And whereas in some cases where there were originally two or more trustees of charity lands, tenements, or hereditaments proposed to be exchanged under the authority of this Act, the number of trustees may have been reduced by death or otherwise; be it further enacted, that in such cases the vacancies of trustees shall be filled up in the usual manner, prior to any application for an exchange pursuant to this Act, except in such cases in which the number of trustees living and capable of acting shall be six or more, in which cases the majority in number of trustees living and capable of acting, shall signify their consent to any proposed exchange in writing, by signing the application to the bishop to authorize such exchange as aforesaid; and when the original trustees shall have been fewer in number than six, and more than three, then the consent of not less than four of such trustees shall be so signified to the bishop; and if the original trustees shall have been only three or two, then the consent of all the trustees shall be signified by all of them; or if there shall have been originally only one trustee, then the consent of the sole trustee for the time being shall be so signified; and if any body politic or corporate shall be a trustee for any such charity lands, tenements or hereditaments, then such consent shall be signified under the seal of the corporation, whether a corporation aggregate or sole, having a corporate seal, and

Number of trustees necessary to give consent.

such signatures, and the affixing of such seals respectively, shall be attested by two or more credible witness or witnesses.

In cases where there are no trustees, the bishop may appoint them in cases of exchange.

VII. And whereas in some cases it may not appear in whom lands, tenements, or hereditaments subject to charitable purposes may be vested, and there may be therefore no person capable of acting touching any such exchange as aforesaid, on behalf of the charity; be it further enacted, that in all such cases it shall be lawful for the bishop of the diocese in which such lands, tenements, or hereditaments shall be situate, upon sufficient proof of the fact, by instrument in writing under his hand and seal, to nominate proper persons to act as trustees on behalf of the charity, for the purposes of such exchange, before any other proceedings shall be had touching such exchange; which trust the person so nominated shall accept, by executing such instrument, before they shall act in such trust; and thereupon it shall be lawful for such trustees to do all things necessary for the purpose of such exchange, as if the lands, tenements, and hereditaments subject to such charitable purposes had been duly vested in them for such purposes, and to convey the charity lands proposed to be exchanged under the authority of this Act: provided always, that if it shall at any time afterwards appear in whom such lands or hereditaments were actually vested at the time of such exchange, it shall be lawful for the person or persons, body politic or corporate, in whom the same shall be then vested by means of such exchange, to obtain, at his, her, or their own expense, a confirmation thereof by conveyance from the person or persons, or their heirs, in whom it shall appear the same were so vested at the time of such exchange; but the defect of title of the trustees so to be nominated by the bishop as aforesaid, shall not prejudice the title to the lands, tenements, or hereditaments received in exchange in trust for such charitable purposes as aforesaid, but the same shall be

Confirmation of conveyance.

held and enjoyed for such charitable purposes, notwithstanding the lands, tenements, or hereditaments originally subject to such charitable purposes, and so given in exchange, were not vested, except by the authority of this Act, in the persons who may have conveyed the same in exchange under the authority of this Act.

Exchanges may be effected though trustees may be proprietors of the lands to be given in exchange.

VIII. And whereas doubts may arise whether under the provisions of this Act an exchange might be legally effected where any trustee or trustees of charity lands, proposed to be given in exchange, should also be the proprietor or proprietors of the lands for which such charity lands should be so proposed to be given in exchange; be it therefore enacted, that under and according to the several restrictions, declarations, and provisions herein-before expressed, and subject thereto, but not otherwise, it shall and may be lawful for any trustee or trustees of any lands, tenements, or hereditaments vested in him, her, or them, either alone or jointly with any other trustee or trustees for any charitable purpose or purposes, to convey or join in conveying, as the case may be, any such trust lands, tenements, or hereditaments, in lieu of and in exchange for any other lands, tenements, or hereditaments of which he, she, or they shall be seized in fee, to and for his, her, or their own use and benefit: provided always, that in every such case the bishop to whom application shall be made for any such exchange, shall, upon such application, and before any other proceedings touching such exchange, nominate and appoint some proper person or persons, having no interest in such exchange, to act as trustee or trustees on the behalf of the said charity, in the matter of such exchange, in the place and stead of the trustee or trustees who by reason of such interest as aforesaid shall be disqualified to act therein; and the concurrence of the person or persons, so to be appointed to act as temporary trustee or trustees as aforesaid, shall be necessary in all subsequent proceedings relating to such exchange.

But the bishop, in such cases, shall appoint trustees who have no interest in the lands.

Eviction in case of defective title.

IX. Provided always, and be it further enacted, that in case the title of any person or persons, body politic or corporate, by whom any lands, tenements, or hereditaments shall be attempted to be conveyed in exchange for any charity lands, tenements, or hereditaments, shall at any time appear to be in any manner defective, so that such lands, tenements, or hereditaments shall in the whole or in part be recovered from the trustees or trustee, body politic or corporate, in whom the same shall have been vested or attempted to be vested in exchange under the authority of this Act, or shall be in any manner charged or incumbered, then and in such case the trustees or trustee, body politic or corporate, in whom such lands, tenements, and hereditaments, or any part thereof, ought to have been vested indefeasibly for charitable purposes as aforesaid, shall enter on the original charity lands, tenements, or hereditaments conveyed in exchange as aforesaid, and hold the same according to the original right before the exchange, for the benefit of the charity, in case the lands, tenements, or hereditaments intended to have been vested by way of exchange for the purposes of the charity shall be wholly evicted, or in case the same shall be partially evicted, or in any manner incumbered, then to hold the same for the purpose of indemnifying the charity against the consequences of any such partial eviction or any such incumbrance, and until full satisfaction shall have been made to the charity, for any defect of title in the lands, tenements, or hereditaments conveyed in exchange for the original charity lands, tenements, or hereditaments as aforesaid, and all costs, charges, and expenses incurred by the charity in consequence thereof.

Expense attending exchanges how to be paid.

X. And be it further enacted, that no part of the expenses attending any exchange to be made in pursuance of this Act, shall be borne by or paid out of the funds of any charity, unless it shall be made appear to the bishop of the diocese, upon application for such exchange as aforesaid, that such exchange is solely intended for the

benefit of such charity, and not for any other purpose, and is in respect of such convenience advantageous to the charity, notwithstanding any expense which may be incurred in effecting the same; and then so much of such expenses only shall be borne by and discharged out of the funds of such charity as such bishop shall find to be just and reasonable, and shall, by instrument under his hand, allow and declare to be, in his opinion, an expense incurred for the benefit of the charity, and such as ought to be discharged out of the funds of such charity.

Exempt jurisdiction not to affect proceedings of the diocesan.

XI. And whereas charity lands, tenements, or hereditaments may be within some peculiar or exempt jurisdiction; be it further enacted, that in such case the application for an exchange under the authority of this Act shall be made to the bishop of the diocese within which the charity lands, tenements, or hereditaments proposed to be exchanged shall be situate, and not to any other authority claiming such peculiar or exempt jurisdiction; and the bishop of such diocese shall proceed in the same manner, in such case, as if such charity lands, tenements, or hereditaments were to all intents and purposes within his jurisdiction as diocesan; and in case any such charity lands, tenements, or hereditaments shall be within two or more dioceses, then and in such case application shall be made to the several bishops of such several dioceses, to direct before which of such bishops the proceedings touching any such exchange shall be had, and such bishops shall accordingly direct before which of such bishops such proceedings shall be had; and thereupon such proceedings shall be had before such bishop in the same manner as such proceedings might have been had if all such charity lands, tenements, or hereditaments had been within the diocese of such bishop.

8 & 9 VICT. CAP. 118.

An Act to facilitate the Inclosure and Improvement of Commons and Lands held in common, the Exchange of Lands, and the Division of intermixed Lands; to provide Remedies for defective or incomplete Executions, and for the non-execution of the Powers of general and local inclosure Acts; and to provide for the Revival of such Powers in certain Cases.

[*8th August*, 1845.]

Exchanges may be made of land not subject to be enclosed.

CXLVII. AND be it enacted, that it shall be lawful for the commissioners (*a*), upon the application in writing of the persons interested, according to the definition herein-before contained, in lands not subject to be inclosed under this Act, or in lands subject to be inclosed under this Act as to which no proceedings for an inclosure shall be pending, and who shall desire to effect an exchange of lands in which they respectively shall be so interested, to direct inquiries whether such proposed exchange would be beneficial to the owners of such respective lands; and in case the commissioners shall be of opinion that such exchange would be beneficial, and that the terms of the proposed exchange are just and reasonable, they shall, unless notice of dissent to the proposed exchange shall be given, under the provision herein-after contained, cause to be framed, and confirmed under the hands and seal of the commissioners, an order of exchange, with a map or plan thereunto annexed, in which order shall be specified and shown the lands given and taken in exchange by each person so interested respectively; and a copy of such order, under the seal of the commissioners, shall be delivered to each of the parties on whose application the exchange shall have been made; and such order of exchange shall be good, valid, and effectual in the law

(*a*) Inclosure commissioners for England and Wales.

to all intents and purposes whatsoever, and shall be in nowise liable to be impeached by reason of any infirmity of estate or defect of title of the persons on whose application the same shall have been made; and the land taken upon every such exchange shall be and enure to, for, and upon the same uses, trusts, intents, and purposes, and subject to the same conditions, charges, and incumbrances, as the lands given on such exchange would have stood limited or been subject to in case such order had not been made; and all expenses with reference to such order and exchange, or the inquiries in relation thereto, or to any proposed exchange, shall be borne by the persons on whose application such order shall have been made or such inquiries undertaken: provided always, that no exchange shall be made of any land held in right of any church or chapel or other ecclesiastical benefice, without the consent, testified in writing, of the bishop of the diocese and the patron of such benefice.

Inconvenient allotments for the poor and public purposes may be exchanged for land more convenient.

CXLIX. And be it enacted, that where, under the powers of any inclosure Act, any allotment shall have been made in trust for the poor inhabitants of any parish or of any class of such poor inhabitants, or in trust to be leased, used, or enjoyed to or by or upon any other trusts for the benefit of such poor inhabitants, or for the purposes of exercise and recreation, or for any other public or parochial purpose, and it shall appear to the commissioners that such allotment, by reason of its distance from the dwellings of such poor inhabitants, or from the nature or quality of the soil, or otherwise, shall not be convenient or suitable for the purposes for which the same shall have been made, it shall be lawful for the commissioners, upon the application in writing of the churchwardens and overseers of the poor of the parish in which such allotment shall be situate, or of the trustees for the time being of such allotment, and of the person interested in land more convenient or suitable for the purposes for which such allotment shall have been made,

and who may be willing to give such land in exchange for such allotment, in case the commissioners shall be of opinion that such exchange would be beneficial to the poor inhabitants or other persons for whose benefit or more suitable to the purposes for which such allotment was made, to cause to be framed and to confirm an order of exchange of such allotment for such other land as aforesaid; and the provisions herein contained concerning exchanges shall apply to such allotment as if such churchwardens and overseers or trustees respectively were the persons interested in such allotment.

Notices of such exchanges and divisions to be given.

CL. Provided always, and be it enacted, that no such order of exchange or order of division and allotment as aforesaid shall be confirmed by the commissioners until notice shall have been given by advertisement in three successive weeks of such proposed exchange or division and allotment, and three calendar months shall have elapsed from the publication of the last of such advertisements; and in case before the expiration of such three calendar months any person entitled to any estate in or to any charge upon any land included in such proposed exchange or division and allotment shall give notice in writing to the commissioners of his dissent from such proposed exchange or division and allotment, as the case may be, the commissioners shall not confirm an order for such exchange or such division or allotment, unless such dissent shall be withdrawn, or it shall be shown to the commissioners that the estate or charge of the party so dissenting shall have ceased.

Expenses of exchanges and divisions.

CLI. And be it enacted, that if any difference shall arise touching the said expenses in relation to any exchange, division, allotment, orders, or inquiries as aforesaid, or the share thereof to be paid by any person, it shall be lawful for the commissioners to certify under their hands and seal the amount to be paid by such person; and in case any person shall neglect or refuse to

pay his share so certified to be payable by him, and upon the production of such certificate before any two justices of the peace for the county or other jurisdiction wherein the land shall be situate, such justices, upon the nonpayment thereof, are hereby required, by warrant under their hands and seals, to cause the same to be levied by distress.

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9 & 10 VICT. CAP. 70.

An Act to amend the Act to facilitate the Inclosure and Improvement of Commons.

[26*th August*, 1846.]

Copyhold and customary lands may be exchanged.

IX. And be it enacted, that the provisions of the said recited Act (*a*) respecting the exchange of lands, and respecting the division into convenient parcels and allotment of lands intermixed or divided into parcels of inconvenient form or quantity (and respectively applicable to land not subject to be inclosed under the said Act, and to land so subject as to which no proceedings for an inclosure shall be pending), shall extend and be applicable to lands of copyhold or customary tenure and the land taken in exchange under any order of exchange; and the land allotted under any order of division and allotment in respect of any copyhold or customary land shall be deemed copyhold or customary land, and shall be held of the lord of the same manor, under the same rent, custom, and services as the copyhold or customary land in respect of which it may be so taken and allotted respectively was or ought to have been held, without any new admittance in respect of land so taken and allotted; and the land taken in exchange and the land allotted under such orders respectively in respect of freehold land shall be of freehold tenure: provided always, that no such order of exchange or of division and allotment of or affecting any copyhold or customary land shall be confirmed by the

Consent of lord of the manor required.

(*a*) 8 & 9 Vict. c. 118.

commissioners unless the consent of the lord of the manor of which such copyhold or customary land shall be holden shall have been given, either to the application of the persons interested for such exchange or division and allotment, or to the exchange or division and allotment to which such order shall relate: and a copy of every such order, when confirmed, shall be delivered to the lord of such manor or his steward, and shall be kept with and deemed part of the court rolls of such manor.

Steward or deputy may consent in writing on behalf of the lord.

X. And be it enacted, that in every case where the consent of the lord of a manor is required under this Act a declaration or statement in writing under the hand of the steward or his deputy authorized to take surrenders or grant admittances of or to copyhold or customary lands in such manor, signifying that the lord has consented, shall be evidence of such consent for all the purposes of this Act; and a recital or statement of the consent of the lord of a manor contained in an award which shall be approved or in an order which shall be confirmed by the commissioners shall, so far as respects the validity of such award or order, be conclusive evidence of such consent.

Shares of land and cattle gates and stints may be exchanged.

XI. And be it enacted, that where a person interested in any undivided share, or any cattle gate or other gate, or any right of common defined by numbers or stints, in or to be exercised over any land, and a person interested in any undivided share or gate or right (so defined) in or to be exercised over any other land, shall be desirous of exchanging their respective shares, gates, or rights, whether such respective lands or either of them shall or shall not be subject to be inclosed under the said recited Act, and whether any proceedings for an inclosure of such respective lands or either of them shall or shall not be pending, it shall be lawful for the commissioners, upon the application in writing of the persons interested in such shares, gates, or rights which they shall be so desirous of exchanging, or in such lands in respect of

such shares, gates, or rights, to make an order of exchange of such respective shares, gates, or rights, without requiring the concurrence in such application of the other persons interested in such lands; and all the provisions of the said recited Act and this Act respecting the exchange of lands shall extend and be applicable to the exchange of such respective shares, gates, or rights; provided that, instead of the map or plan by the said recited Act directed to be annexed to an order of exchange, the commissioners may cause to be therein inserted or thereunto annexed such descriptions as may appear to them sufficiently to ascertain such respective shares, gates, or rights, and such respective lands as aforesaid.

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10 & 11 VICT. CAP. 111.

An Act to extend the Provisions of the Act for the Inclosure and Improvement of Commons.

[23*rd July*, 1847.]

Exchanges may be made of land, excepting or reserving minerals and easements.

IV. And be it enacted, that where an exchange shall be made under the said Act (*a*) of lands not subject to be inclosed under such Act, or of lands subject to be so inclosed as to which no proceedings for an inclosure shall be pending, it shall and may be lawful for the commissioners, in conformity with the terms of the application for such exchange, to except or reserve out of such exchange the property or right of or to all or any of the mines or minerals under all or any part of the land given by both or either of the parties, together with rights and easements for or auxiliary to the exercise or enjoyment of the right or property of such excepted or reserved mines and minerals, and (whether such mines and minerals shall or shall not be reserved) such rights of way and other easements as the parties to such application may have agreed on.

(*a*) 8 & 9 Vict. c. 118.

VI. And whereas it is provided by the said Act that any land taken in exchange or on partition or allotted in respect of copyhold or customary land shall be deemed copyhold or customary land, and shall be held of the lord of the same manor under the same rent and by the same customs and services as the copyhold or customary land in respect of which it may have been taken in exchange or on partition or allotted was or ought to have been held, and shall pass in like manner as the copyhold or customary land in respect whereof such exchanges, partitions, or allotments shall be made: and whereas it is expedient to enable the parties so taking such lands in exchange or on partition or as allotments to hold the same of freehold tenure: be it enacted, that, by and with the consent of the lord of the manor and of the parties so taking such lands in exchange or on partition or as allotments, it shall and may be lawful for the said commissioners to declare that the same shall be held as of freehold tenure, on such terms and conditions as may be agreed upon between the parties, and as may be deemed just by the said commissioners, and the same land shall be held as freehold accordingly.

Lands taken in exchange, &c., in respect of copyhold or customary lands shall be held to be copyhold, and shall be held of the same lord, &c.

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11 & 12 VICT. CAP. 99.

An Act to further extend the Provisions of the Act for the Inclosure and Improvement of Commons.

[*4th September*, 1848.]

XIII. And whereas it is expedient that the provisions of the said recited Acts (*a*) concerning exchanges should extend to partition: be it enacted, that it shall be lawful for the commissioners, upon the application in writing of the persons interested, according to the definitions in the said first-recited Act contained, in the several undivided

Provisions of Inclosure Acts concerning exchanges of land not subject to be inclosed, &c., extended to partition.

(*a*) 8 & 9 Vict. c. 118; 9 & 10 Vict. c. 70; and 10 & 11 Vict. c. 111.

parts or shares of any land not subject to be inclosed under the said first-recited Act, or in land subject to be inclosed under such Act as to which no proceedings for an inclosure shall be pending, and who shall desire to effect a partition of such land, to direct inquiries whether such proposed partition would be beneficial to the owners of such undivided parts or shares, and in case the commissioners shall be of opinion that such partition would be beneficial, and that the terms of the proposed partition are just and reasonable, they shall, unless notice of dissent to the proposed partition shall be given, under the provision herein by reference contained, cause to be framed and confirmed an order of partition, with a map or plan thereunto annexed, in which order shall be specified and shown the land allotted in severalty to each person so interested in respect of the undivided part or share in which he shall be so interested respectively; and the land allotted in severalty upon every such partition, in respect of each such undivided part or share, shall be and enure to, for, and upon the same uses, trusts, intents, and purposes, and subject to the same conditions, charges, and incumbrances, as the undivided part or share in respect whereof the same shall be allotted would have stood limited or been subject to, in case such order had not been made.

Provisions of Inclosure Acts applicable to such exchange to apply to partition under this Act.

XIV. And be it enacted, that the provisions of the said first-recited Act concerning notice, dissent, and confirmation, and expenses, with respect to an exchange of lands not subject to be inclosed under such Act, or of lands subject to be inclosed under such Act as to which no proceedings for an inclosure shall be pending, and all other provisions of the said first-recited Act, and of the Acts for amending and extending the same, applicable to such exchange as aforesaid, shall be applicable to a partition of land under this Act.

12 & 13 VICT. CAP 83.

An Act further to facilitate the Inclosure of Commons, and the Improvement of Commons and other Lands.

[1*st August*, 1849.]

Exchange and partition of rights, &c.

VII. And be it enacted, that all the provisions of the said recited Acts (*a*) applicable to the powers of exchange and partition under the said recited Acts shall extend and be applicable to the exchange of all rights of common, rights of fishing, manorial and other rights, and all easements over any land, and all quit rents, chief rents, heriots, tithes, and rentcharges for any other of the said rights, easements, and things, whether of the same or a like or different nature, or for land, and also to the partition of the same respectively; and when two or more persons shall be interested jointly, severally, as a class, or in common, in any rights or property proposed to be exchanged or partitioned under this or the said recited Acts, the application of two thirds in value of the persons so interested jointly, severally, as a class, or in common, as aforesaid, shall be deemed the application of all persons interested or having any estate therein.

Lands held under separate titles by the same person may be exchanged.

XI. And whereas doubts have arisen whether, under the said recited Acts, a person interested in several subject matters of exchange, but held under separate titles, or for distinct and separate interests, or subject to separate charges or incumbrances, can effect an exchange thereof; be it declared and enacted, that the person so interested as aforesaid may effect exchanges of such several subject matters of exchange in such and the same manner as if different persons had been interested therein.

(*a*) 8 & 9 Vict. c. 118; 9 & 10 Vict. c. 70; 10 & 11 Vict. c. 111; and 11 & 12 Vict. c. 99.

15 & 16 VICT. CAP. 79.

An Act to amend and further extend the Acts for the Inclosure, Exchange, and Improvement of Land.

[30*th June*, 1852.]

Deposit of orders of exchange and partition in certain cases.

XVII. In any case of division of intermixed land, exchange, or partition in which it shall appear to the commissioners from the number of persons interested in the subject matter of the division, exchange, or partition, or the nature of their interests, that the direction in the said recited Acts (*a*) that a copy of the order under the seal of the commissioners shall be delivered to each of the parties upon whose application such order shall be made are inapplicable, it shall be lawful for them, instead of delivering a copy of such order to each of such parties, to direct by an order under their seal that copies shall be deposited in such and the same manner as copies of an award in the matter of an inclosure under the said Acts are directed to be deposited, and thereupon all the provisions in the said firstly-recited Act relating to the deposit, custody, and inspection of copies of such awards and for the furnishing of copies of and extracts therefrom, shall be applicable to copies of such orders of division, exchange, and partition respectively: provided always, that the commissioners shall, upon the request and at the cost of any person upon whose application such order was made, furnish him with a copy of the order sealed with their seal.

Allotments set out under local Acts may be exchanged.

XXI. Where any allotment has been made in trust or otherwise under any inclosure award for any public or parochial purpose, or for the benefit of the inhabitants or others within any parish or manor, and it shall appear

(*a*) 8 & 9 Vict. c. 118; 9 & 10 Vict. c. 70; 10 & 11 Vict. c. 111; 11 & 12 Vict. c. 99; 12 & 13 Vict. c. 83; and 14 & 15 Vict. c. 53.

to the said commissioners to be no longer necessary, convenient, or suitable for the purposes for which the same shall have been made, it shall be lawful for the commissioners, upon the application in writing of the churchwardens and overseers of the poor of the parish in which such allotment is situated, or the trustees for the time being of such allotment, and of the person interested in any land or other subject matter of exchange under the said recited Acts or either of them which he may be willing to give in exchange for such allotment, in case they shall be of opinion that such exchange would be mutually beneficial, to cause to be framed, and to confirm an order of exchange of such allotment for such other land or other subject matter of an exchange as aforesaid, and all the provisions of the said recited Acts applicable to exchanges shall extend and be applicable to any such applications for exchange: provided always, that it shall be lawful thereby to declare any new trusts, if the same shall have been approved of by a majority of the persons for whose benefit such allotment as aforesaid was set out present at a meeting convened by the commissioners for the purpose of considering the same.

Confirmed awards and orders may be corrected.

XXIX. In case of any fraudulent or other error or omission in any award or order confirmed by the commissioners, the said commissioners may, by an order under their hands and seal, by indorsement or otherwise, correct such error or supply such omission, and such order shall be ingrossed, and, where not indorsed as aforesaid, be deposited with the original award or order, and shall thenceforth be and be deemed to be part thereof to all intents and purposes; and all the expenses incident thereto shall be paid by the party (if any) who shall have requested the commissioners to make and execute the same, or by his executors or administrators.

Land held under separate titles, &c., by

XXXI. Any person interested in any land or other subject matter of partition in undivided shares held

the same person may be partitioned.

under separate titles, or for distinct and separate interests, or subject to separate charges or incumbrances, may effect a partition of the same in such and the same manner as if different persons had been interested therein.

Power to effect partitions and exchanges where parties interested in land, subject matter of partition, and also in the entirety of any land.

XXXII. Where any person or persons interested in any undivided parts or shares of any land or other subject matter of partition, within the meaning and intent of the said recited Acts, or any of them, and also interested in the entirety of any land or other subject matter of exchange within the meaning and intent of the said recited Acts or any of them, shall be desirous at one and the same time of effecting a partition and exchange thereof, it shall be lawful for such persons so desirous of effecting such partition and exchange to agree between themselves to effect the partition and exchange, in such a manner and in such proportions as they shall think fit, so that the land to be allotted to such person or persons in severalty, by means of such partition, together with the land to be taken in exchange by such person or persons, shall be a fair equivalent in value for the land so to be allotted in severalty to and the land to be taken in exchange by the other person or persons; and the commissioners may, upon the application in writing of the persons so interested, direct inquiries whether such arrangement would be beneficial to the owners of such lands and such undivided parts or shares respectively, and in case they shall be of opinion that such arrangement would be beneficial, and that the terms thereof are just and reasonable, they shall, unless notice of dissent be given in the manner provided by the said several recited Acts, cause to be framed and confirmed an order of partition and exchange, with a map or plan thereunto annexed, in which order shall be specified and shown the lands allotted and awarded to each party under the said arrangement; before making such order of partition and exchange, the commissioners shall ascertain, and shall in

such order specify, what portions of the lands so to be awarded and allotted to each or any party is equivalent in value to the undivided part or share of such party in the lands partitioned, and the said portions so ascertained and specified shall be taken and deemed to be so awarded and allotted under the partition; and the said commissioners shall also ascertain, and shall in such order specify, what portion of the lands so to be awarded and allotted to each or any party is equivalent in value to the land given in exchange by such party, and such portion so ascertained and specified shall be deemed to be so awarded and allotted by way of exchange; and the land awarded and allotted by such order to each party shall be held in the following manner, viz., so much thereof as by the said order shall be awarded and allotted under the partition shall be and enure to, for, and upon the same uses, trusts, intents, and purposes, and subject to the same conditions, charges, and incumbrances, as the undivided part or share of the party would have stood limited or been subject to in case the said order had not been made, and so much of the said land as by the said order shall be awarded and allotted by way of exchange shall be and enure to, for, and upon the same uses, trusts, intents, and purposes, and subject to the same conditions, charges, and incumbrances, as the land given in exchange would have stood limited or been subject to in case such order had not been made.

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17 & 18 VICT. CAP. 97.

An Act to amend and extend the Acts for the Inclosure, Exchange, and Improvement of Land.

[10*th August*, 1854.]

I. THE provisions of the said Acts with respect to the exchange and partition of land not subject to be inclosed under such Acts, or of land subject to be inclosed under

Lands subject to be inclosed may be exchanged pend-

ing inclosure proceedings.

such Acts as to which no proceedings for an inclosure shall be pending, shall extend and be applicable to land subject to be inclosed under such Acts whilst proceedings for an inclosure shall be pending.

Undivided shares may be exchanged.

II. Undivided shares in any land or other subject matter of exchange may be exchanged under the provisions of the said Acts, upon the application of the person interested under the provisions of the said Acts in respect of such undivided shares.

Land to include incorporeal hereditaments.

III. The word "land" shall extend to and include incorporeal as well as corporeal hereditaments, and any undivided share thereof.

Lessee the "person interested" in certain cases.

IV. Where any land or hereditaments shall have been leased for a term which shall have exceeded one hundred years from the commencement thereof, and it shall be shown to the satisfaction of the commissioners that no rent or acknowledgment has been paid or given for the period of twenty years, or that the person entitled to the rent reserved upon such lease cannot, upon reasonable inquiry, be ascertained, the person in the actual possession or enjoyment of such land or hereditaments, or in the actual receipt of the rents and profits thereof as owner of such term, shall be and be deemed to be the person interested within the provisions of the said Acts.

Orders of exchange, partition, and division may be made, upon application of parties in possession under an agreement.

V. It shall be lawful for the commissioners, on the application in writing of the parties in possession of any lands, tenements, or hereditaments under any agreement for the exchange, partition, or division of the same or any of them, to proceed with such exchange, partition, or division under the provisions of the said Acts; and such application, and order thereon, shall be as valid and effectual as if the parties making such application had been the parties interested under the provisions of the said Acts.

20 & 21 VICT. CAP. 31.

An Act to amend and explain the Inclosure Acts.

[10*th August*, 1857.]

Exchanges of land by railway and other companies.

IV. FOR the purpose of removing all doubts as to the power of companies incorporated by special act of parliament for the making and maintaining of any railway, canal, docks, harbour, waterworks, or other work, to exchange land belonging to such companies under the provisions of the said Acts, be it declared and enacted, that every such company shall be deemed to be a person interested within the meaning of "The Acts for the inclosure, exchange, and improvement of land," for the purpose of exchanging land belonging to the said company, and that notwithstanding the provisions in any Act of parliament relating to such company specially limiting the purposes to which such land belonging to the said company shall be applicable.

Exchange of lands in which Her Majesty is interested in reversion.

V. In case any person interested according to the definition contained in the sixteenth section of the Act passed in the session of parliament held in the eighth and ninth years of the reign of Her present Majesty, chapter one hundred and eighteen, shall apply to the inclosure commissioners for an order of exchange of any land in which Her Majesty, her heirs or successors, have any estate or interest in right of the crown, in reversion or remainder expectant upon the determination of any estate for life or other larger interest, it shall be lawful for the inclosure commissioners to make such order of exchange, if they shall so think fit, provided that the consent of her Majesty, her heirs or successors shall have been previously signified thereto by some writing under the hand of one of the commissioners of Her Majesty's woods, forests, and land revenues; and every such order of ex-

change which shall be made with such consent shall be valid and effectual to all intents and purposes whatsoever, and shall be binding upon Her Majesty, her heirs and successors, and a duplicate thereof shall in every case be deposited in the office of Land Revenue Records and Inrolments: provided always, that in case any such order shall, previously to the passing of this Act, have been made upon the application of any person as above mentioned, with the said consent previously signified as aforesaid, every such order shall be as valid and effectual, and be in like manner binding upon Her Majesty, her heirs and successors, as if the said consent had been given under the provisions of this Act.

On an exchange inequality of value may be compensated by a rentcharge.

VI. Where the value of any land proposed to be exchanged under the Acts for the inclosure, exchange, and improvement of land, or any of them, exceeds the value of the land, rights, easements, or hereditaments for which the same is proposed to be exchanged, the difference in value may be compensated by a perpetual rentcharge of such amount as in the opinion of the valuer or commissioners (as the case may require) will be just, to be charged upon the land for the excess in value whereof the same is intended as an equivalent, or upon such part thereof as may appear to the valuer or commissioners (as the case may require) to afford sufficient security for such rentcharge.

On a partition disproportion in value of allotments in severalty may be compensated by a rentcharge.

VII. Where any land of which a partition is proposed to be made under the said Acts or any of them cannot in the opinion of the valuer or commissioners (as the case may be) be conveniently allotted in severalty in parts or shares of the like proportional values as the undivided parts or shares in respect whereof the partition is proposed to be made, the difference in such proportional values may be compensated by a perpetual rentcharge of such amount, or perpetual rentcharges of such aggregate amount, as in the opinion of the valuer or commissioners

(as the case may require) will be just, to be charged on the land or respective lands for the excess in value whereof the same is or are intended as an equivalent or equivalents, or upon such part or respective parts of such land or lands as may appear to the valuer or commissioners (as the case may require) to afford sufficient security for such rentcharge or rentcharges respectively.

Deficiency in value not to exceed one-eighth of the actual value.

VIII. Provided always, that nothing herein contained shall extend to authorize any exchange or partition, or the creation of any such rentcharge as aforesaid, where in the opinion of the valuer or commissioners (as the case may be) the deficiency in value of any land or other hereditaments which would require to be compensated as aforesaid exceeds one eighth part of the actual value thereof.

Amount of rent-charge and lands to be charged to be determined by the inclosure award or order of exchange, &c.

IX. The amount of the rentcharge or respective amounts of the rentcharges (as the case may be) to be created under this Act, on any such exchange or partition as aforesaid, and the land or lands to be charged therewith shall respectively be fixed and determined by the inclosure award or order of exchange or partition (as the case may require).

Indefeasible title and priority and recovery of rentcharges.

X. Every such rentcharge shall be a valid and indefeasible charge upon the land charged therewith by the confirmed inclosure award or the confirmed order of exchange or partition (as the case may be) subject only to tithe rentcharges, land tax, local rates and taxes, quit or chief rents incidental to tenure, and charges created or to be created under any Act authorizing advances of public or private money for drainage or the improvement of lands, and prior to all other charges whatsoever, and shall be recoverable in the same manner as a tithe rentcharge charged under the Act of the session holden in the sixth and seventh years of King William the Fourth, chapter seventy-one, "for the Commutation of Tithes in England and Wales."

Rentcharge to go with the land the deficiency in value whereof it compensates.

XI. Every rentcharge created under this Act shall be and enure to, for, and upon the same uses, trusts, intents, and purposes, and be subject to the same conditions, charges, and incumbrances, as the land or hereditaments in respect of the deficiency in value whereof such rentcharge is made payable will stand and be limited and subject to after the confirmation of the inclosure award or the order of exchange or partition (as the case may be).

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22 & 23 VICT. CAP. 43.

An Act to amend and extend the Provisions of the Acts for the Inclosure, Exchange, and Improvement of Land.

[13*th August*, 1859.]

Lessees need not join in application for partition.

X. In partitions it shall not be necessary that any lessee, being a person jointly interested within the provisions of the said Acts in any land or other subject matter of partition, should join in the application to the commissioners; and whenever any land or other subject matter of such partition shall be held by one entire rent, the order of partition shall apportion the rent to be paid to each of the persons to whom any part of the same may be allotted in severalty; and after the confirmation of such order all rent and services due and owing or thereafter to become due and owing in respect of the land or other subject matter of partition shall be paid and payable to the person to whom the same shall be allotted in severalty; provided always, that such lessee shall not have the power of giving notice of dissent, under the provisions of the said Acts.

In partitions dissents not to apply in certain cases.

XI. Notwithstanding anything therein contained, the provisions of the said Acts as to notice of dissent shall not apply to partitions in which the application is

made by two thirds in value of the persons interested in the land or other subject matter of partition.

Where patronage vested in the crown, who to be deemed patron.

XII. Whenever the patronage of any benefice to which the provisions of the said Acts are applicable shall be vested in Her Majesty, the Lord High Treasurer or first Lord Commissioner of the treasury for the time being where the value of such benefice is above the yearly value of twenty pounds in the King's books, and where such value is of or below the yearly value of twenty pounds in the King's books, the Lord Chancellor or Lord Keeper or first Lord Commissioner of the Great Seal for the time being, shall for the purposes of the said Acts be substituted instead of the patron: provided nevertheless, that if such patronage is vested in Her Majesty in right of the Duchy of Lancaster the chancellor for the time being of such duchy shall for the purposes of the said Acts be substituted instead of the patron.

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25 & 26 VICT. CAP. 108.

An Act to confirm certain Sales, Exchanges, Partitions, and Enfranchisements by Trustees and others.

[*7th August*, 1862.]

WHEREAS trustees and others, in the intended exercise of trusts or powers authorizing them to dispose of land by sale, exchange, partition, or enfranchisement, have disposed of land subject to such trusts or powers, with an exception or reservation of minerals, and either with or without rights and powers for or incidental to the working, getting, and carrying away of such minerals, or otherwise relating thereto, or have so disposed of minerals with or without such rights and powers separately from the residue of the land, such mode of disposition not being expressly authorized nor forbidden by the instrument creating the trust or power: and whereas it is

expedient to confirm such dispositions as aforesaid: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:—

Powers of sale, &c., not to be invalid on the ground of want of express mention of exception of reservation of minerals, &c.

I. No sale, exchange, partition, or enfranchisement at any time heretofore of land by any trustee or other person, expressed or intended to made in exercise of any trust or power authorizing the sale, exchange, partition, or enfranchisement of land, and not forbidding the reservation of minerals, and which sale, exchange, partition, or enfranchisement shall have been made with an exception or reservation of minerals, and with or without rights or powers for or incidental to the working, getting, and carrying away of such minerals, or otherwise relating thereto, shall be invalid on the ground only that the trust or power did not expressly authorize such exception or reservation, but such sale, exchange, partition, or enfranchisement shall be deemed to have taken effect in the same manner as if the exception or reservation had been authorized by the trust or power; and no sale, exchange, or partition heretofore made as aforesaid of any minerals separately from the residue of the land subject to the trust or power intended to have been exercised, and either with or without such rights or powers as aforesaid, shall be invalid on the ground only that the trust or power did not expressly authorize such sale, exchange, or partition, but such sale, exchange, or partition shall be deemed to have taken effect in the same manner as if such minerals, rights, and powers (if any) had been expressly authorized to be so dealt with separately from the residue of such land; but this enactment shall not be deemed to confirm any sale, exchange, partition, or enfranchisement already declared by a court of competent jurisdiction to be invalid, nor to confirm or affect any sale, exchange, partition, or enfranchisement as to the

Not to confirm sales, &c., declared invalid, or pending.

validity of which any suit or other proceeding is now pending.

Trustees may dispose of land or minerals separately, without the residue, &c.

II. And whereas it is expedient that trusts and powers to dispose of land by way of sale, exchange, partition, or enfranchisement should be extended in the manner hereinafter appearing:

Every trustee and other person now or hereafter to become authorized to dispose of land by way of sale, exchange, partition, or enfranchisement may, unless forbidden by the instrument creating the trust or power, so dispose of such land with an exception or reservation of any minerals, and with or without rights and powers of or incidental to the working, getting, or carrying away of such minerals, or may (unless forbidden as aforesaid) dispose of by way of sale, exchange, or partition, the minerals with or without such rights or powers separately from the residue of the land, and in either case without prejudice to any future exercise of the authority with respect to the excepted minerals, or (as the case may be) the undisposed-of land; but this enactment shall not enable any such disposition as aforesaid without the previous sanction of the Court of Chancery, to be obtained on petition in a summary way of the trustee or other person authorized as aforesaid, which sanction once obtained shall extend to the enabling from time to time of any disposition within this enactment of any part or parts of the land comprised in the order to be made on such petition, without the necessity of any further or other application to the court.

Sanction of Court of Chancery requisite.

Extent of Act.

III. This Act shall not extend to Ireland or Scotland.

21 & 22 VICT. CAP. 94.

An Act to amend the Copyhold Acts.

[*2nd August*, 1858.]

Enfranchisement money may be paid to official trustees of charitable funds.

XV. IN the case of a corporation or other lord of any manor holden upon any charitable trust within the provisions of the "Charitable Trust Act, 1853," or "Charitable Trust Amendment Act, 1855," not authorized to make an absolute sale otherwise than under the provisions of the said last-mentioned Acts or of the copyhold Acts, the consideration money to be paid for the redemption or sale of any rentcharge, or as compensation for any enfranchisement, may, at the option of the lord, be paid into the hands of the official trustees of charitable funds acting under the said Charitable Trusts Acts, in trust for the charity to which the manor shall belong; and the principal monies shall be applied by the trustees, under the order of the charity commissioners for England and Wales, for the purposes to which the said money if paid into the Bank of England in the name of the Accountant-General of the Court of Chancery would be applicable under the copyhold Acts, and in the meantime shall be invested, and the dividends of such investments shall be applied, according to the provisions of the said Acts relating to charitable funds paid to such official trustees (*a*).

(*a*) Compulsory enfranchisements may be made under the provisions of the Copyhold Acts of 1852 (15 & 16 Vict. c. 51) and 1858 (21 & 22 Vict. c. 94) with the sanction of the Copyhold Commissioners.

3 & 4 WILL. IV. CAP. 27.

An Act for the Limitation of Actions and Suits relating to Real Property, and for simplifying the Remedies for trying the Rights thereto.

[24*th July*, 1833.]

Meaning of the Words in the Act.

BE it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that the words and expressions herein-after mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows; (that is to say,) the word "land" shall extend to manors, messuages, and all other corporeal hereditaments whatsoever, and also to tithes (other than tithes belonging to a spiritual or eleemosynary corporation sole), and also to any share, estate, or interest in them or any of them, whether the same shall be a freehold or chattel interest, and whether freehold or copyhold, or held according to any other tenure; and the word "rent" shall extend to all heriots, and to all services and suits for which a distress may be made, and to all annuities and periodical sums of money charged upon or payable out of any land (except moduses or compositions belonging to a spiritual or eleemosynary corporation sole); and the person through whom another person is said to claim shall mean any person by, through, or under, or by the Act of whom the person so claiming became entitled to the estate or interest claimed, as heir, issue in tail, tenant by the courtesy of England, tenant in dower, successor, special or general occupant, executor, administrator, legatee, husband, assignee, appointee, devisee,

"Land."

"Rent."

Person through whom another claims.

or otherwise, and also any person who was entitled to an estate or interest to which the person so claiming, or some person through whom he claims, became entitled as lord by escheat; and the word "person" shall extend to a body politic, corporate, or collegiate, and to a class of creditors or other persons, as well as an individual; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

"Person."

Number and gender.

No land or rent to be recovered but within twenty years after the right of action accrued to the claimant or some person whose estate he claims.

II. And be it further enacted, that after the thirty-first day of December one thousand eight hundred and thirty-three no person shall make an entry or distress or bring an action to recover any land or rent but within twenty years next after the time at which the right to make such entry or distress or to bring such action shall have first accrued to some person through whom he claims, or if such right shall not have accrued to any person through whom he claims, then within twenty years next after the time at which the right to make such entry or distress or to bring such action shall have first accrued to the person making or bringing the same.

When the right shall be deemed to have accrued:

In the case of an estate in possession;

III. And be it further enacted, that in the construction of this Act the right to make an entry or distress or bring an action to recover any land or rent shall be deemed to have first accrued at such time as herein-after is mentioned; (that is to say,) when the person claiming such land or rent, or some person through whom he claims, shall, in respect of the estate or interest claimed, have been in possession or in receipt of the profits of such land, or in receipt of such rent, and shall while entitled thereto have been dispossessed, or have discontinued such possession or receipt, then such right shall be deemed to have first accrued at the time of such dispossession or discontinuance of possession, or at the

on dispossession;

last time at which any such profits or rent were or was so received; and when the person claiming such land or rent shall claim the estate or interest of some deceased person who shall have continued in such possession or receipt in respect of the same estate or interest until the time of his death, and shall have been the last person entitled to such estate or interest who shall have been in such possession or receipt, then such right shall be deemed to have first accrued at the time of such death; and when the person claiming such land or rent shall claim in respect of an estate or interest in possession granted, appointed, or otherwise assured by any instrument (other than a will, to him, or some person through whom he claims, by a person being in respect of the same estate or interest in the possession or receipt of the profits of the land, or in the receipt of the rent, and no person entitled under such instrument shall have been in such possession or receipt, then such right shall be deemed to have first accrued at the time at which the person claiming as aforesaid, or the person through whom he claims, became entitled to such possession or receipt by virtue of such instrument; and when the estate or interest claimed shall have been an estate or interest in reversion or remainder, or other future estate or interest, and no person shall have obtained the possession or receipt of the profits of such land or the receipt of such rent in respect of such estate or interest, then such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession; and when the person claiming such land or rent, or the person through whom he claims, shall have become entitled by reason of any forfeiture or breach of condition, then such right shall be deemed to have first accrued when such forfeiture was incurred or such condition was broken.

on abatement or death;

on alienation;

in case of future estate;

in case of forfeiture or breach of condition.

IV. Provided always, that when any right to make an entry or distress or to bring an action to recover any land

Where advantage of forfeiture is not

taken by remainder-man, he shall have a new right when his estate comes into possession.

or rent, by reason of any forfeiture or breach of condition, shall have first accrued in respect of any estate or interest in reversion or remainder, and the land or rent shall not have been recovered by virtue of such right, the right to make an entry or distress or bring an action to recover such land or rent shall be deemed to have first accrued in respect of such estate or interest at the time when the same shall have become an estate or interest in possession, as if no such forfeiture or breach of condition had happened.

Reversioner to have a new right.

V. Provided also, that a right to make an entry or distress or to bring an action to recover any land or rent shall be deemed to have first accrued, in respect of an estate or interest in reversion, at the time at which the same shall have become an estate or interest in possession by the determination of any estate or estates in respect of which such land shall have been held, or the profits thereof or such rent shall have been received, notwithstanding the person claiming such land, or some person through whom he claims, shall at any time previously to the creation of the estate or estates which shall have determined have been in possession or receipt of the profits of such land, or in receipt of such rent.

An administrator to claim as if he obtained the estate without interval after death of deceased.

VI. And be it further enacted, that for the purposes of this Act an administrator claiming the estate or interest of the deceased person of whose chattels he shall be appointed administrator, shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration.

In the case of a tenant at will the right shall be deemed to have accrued at the end of one year.

VII. And be it further enacted, that when any person shall be in possession or in receipt of the profits of any land or in receipt of any rent, as tenant at will, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress or

bring an action to recover such land or rent, shall be deemed to have first accrued, either at the determination of such tenancy or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined: provided always, that no mortgagor or *cestui que trust* shall be deemed to be a tenant at will, within the meaning of this clause, to his mortgagee or trustee.

No person after a tenancy from year to year to have any right but from the end of the first year or last payment of rent.

VIII. And be it further enacted, that when any person shall be in possession or in receipt of the profits of any land, or in receipt of any rent as tenant from year to year or other period, without any lease in writing, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress or to bring an action to recover such land or rent shall be deemed to have first accrued at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy shall have been received (which shall last happen).

Where rent amounting to 20*s.*, reserved by a lease in writing, shall have been wrongfully received, no right to accrue on the determination of the lease.

IX. And be it further enacted, that when any person shall be in possession or in receipt of the profits of any land, or in receipt of any rent, by virtue of a lease in writing by which a rent amounting to the yearly sum of twenty shillings or upwards shall be reserved, and the rent reserved by such lease shall have been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease shall afterwards have been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent subject to such lease, or of the person through whom he claims to make an entry or distress or to bring an action after the determination of such lease, shall be deemed to have first accrued at the time at which the rent reserved by such lease was first so received by the person wrongfully

claiming as aforesaid; and no such right shall be deemed to have first accrued upon the determination of such lease to the person rightfully entitled.

A mere entry not to be deemed possession.

X. And be it further enacted, that no person shall be deemed to have been in possession of any land within the meaning of this Act merely by reason of having made an entry thereon.

No right to be preserved by continual claim.

XI. And be it further enacted, that no continual or other claim upon or near any land shall preserve any right of making an entry or distress or of bringing an action.

Possession of one coparcener, &c. not to be the possession of the others.

XII. And be it further enacted, that when any one or more of several persons entitled to any land or rent as coparceners, joint tenants, or tenants in common, shall have been in possession or receipt of the entirety, or more than his or their undivided share or shares of such land or of the profits thereof, or of such rent, for his or their own benefit, or for the benefit of any person or persons other than the person or persons entitled to the other share or shares of the same land or rent, such possession or receipt shall not be deemed to have been the possession or receipt of or by such last-mentioned person or persons or any of them.

Possession of a younger brother not to be the possession of the heir.

XIII. And be it further enacted, that when a younger brother or other relation of the person entitled as heir to the possession or receipt of the profits of any land, or to the receipt of any rent, shall enter into the possession or receipt thereof, such possession or receipt shall not be deemed to be the possession or receipt of or by the person entitled as heir.

Acknowledgment in writing given to the person entitled,

XIV. Provided always, and be it further enacted, that when any acknowledgment of the title of the person entitled to any land or rent shall have been given to him

or his agent in writing, signed by the person in possession or in receipt of the profits of such land or in receipt of such rent, then such possession or receipt of or by the person by whom such acknowledgment shall have been given shall be deemed, according to the meaning of this Act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment shall have been given at the time of giving the same, and the right of such last-mentioned person, or any person claiming through him, to make an entry or distress, or bring an action to recover such land or rent, shall be deemed to have first accrued at and not before the time at which such acknowledgment, or the last of such acknowledgments if more than one, was given.

or his agent, to be equivalent to possession or receipt of rent.

XV. Provided also, and be it further enacted, that when no such acknowledgment as aforesaid shall have been given before the passing of this Act, and the possession or receipt of the profits of the land, or the receipt of the rent, shall not at the time of the passing of this Act have been adverse to the right or title of the person claiming to be entitled thereto, then such person, or the person claiming through him, may, notwithstanding the period of twenty years herein-before limited shall have expired, make an entry or distress, or bring an action to recover such land or interest, at any time within five years next after the passing of this Act.

Where possession is not adverse at the time of passing the Act, the right shall not be barred until the end of five years afterwards.

XVI. Provided always, and be it further enacted, that if at the time at which the right of any person to make an entry or distress, or bring an action to recover any land or rent, shall have first accrued as aforesaid, such person shall have been under any of the disabilities herein-after mentioned, (that is to say), infancy, coverture, idiotcy, lunacy, unsoundness of mind, or absence beyond seas, then such person, or the person claiming through him, may, notwithstanding the period of twenty years herein-before limited shall have expired, make an entry or

Persons under disability of infancy, lunacy, coverture, or beyond seas, and their representatives, to be allowed ten years from the termination of their disability or death;

distress, or bring an action to recover such land or rent, at any time within ten years next after the time at which the person to whom such right shall first have accrued as aforesaid shall have ceased to be under any such disability, or shall have died (which shall have first happened).

but no action, &c. shall be brought beyond forty years after the right of action accrued.

XVII. Provided nevertheless, and be it further enacted, that no entry, distress, or action shall be made or brought by any person who, at the time at which his right to make an entry or distress, or to bring an action to recover any land or rent, shall have first accrued, shall be under any of the disabilities herein-before mentioned, or by any person claiming through him, but within forty years next after the time at which such right shall have first accrued, although the person under disability at such time may have remained under one or more of such disabilities during the whole of such forty years, or although the term of ten years from the time at which he shall have ceased to be under any such disability, or have died, shall not have expired.

No further time to be allowed for a succession of disabilities.

XVIII. Provided always, and be it further enacted, that when any person shall be under any of the disabilities herein-before mentioned at the time at which his right to make an entry or distress, or to bring an action to recover any land or rent, shall have first accrued, and shall depart this life without having ceased to be under any such disability, no time to make an entry or distress, or to bring an action to recover such land or rent, beyond the said period of twenty years next after the right of such person to make an entry or distress, or to bring an action to recover such land or rent, shall have first accrued, or the said period of ten years next after the time at which such person shall have died, shall be allowed by reason of any disability of any other person.

Scotland, Ireland, and

XIX. And be it further enacted, that no part of the United Kingdom of Great Britain and Ireland, nor the

Islands of Man, Guernsey, Jersey, Alderney, or Sark, nor any island adjacent to any of them (being part of the dominions of His Majesty), shall be deemed to be beyond seas within the meaning of this Act.

the adjacent islands not to be deemed beyond seas.

XX. And be it further enacted, that when the right of any person to make an entry or distress or bring an action to recover any land or rent to which he may have been entitled for an estate or interest in possession shall have been barred by the determination of the period herein-before limited, which shall be applicable in such case, and such person shall at any time during the said period have been entitled to any other estate, interest, right, or possibility, in reversion, remainder, or otherwise, in or to the same land or rent, no entry, distress, or action shall be made or brought by such person, or any person claiming through him, to recover such land or rent, in respect of such other estate, interest, right, or possibility, unless in the meantime such land or rent shall have been recovered by some person entitled to an estate, interest, or right which shall have been limited or taken effect after or in defeasance of such estate or interest in possession.

When the right to an estate in possession is barred, the right of the same person to future estates shall also be barred.

XXI. And be it further enacted, that when the right of a tenant in tail of any land or rent to make an entry or distress or to bring an action to recover the same shall have been barred by reason of the same not having been made or brought within the period herein-before limited, which shall be applicable in such case, no such entry, distress, or action shall be made or brought by any person claiming any estate, interest, or right which such tenant in tail might lawfully have barred.

Where tenant in tail is barred, remaindermen, whom he might have barred, shall not recover.

XXII. And be it further enacted, that when a tenant in tail of any land or rent, entitled to recover the same, shall have died before the expiration of the period herein-before limited, which shall be applicable in such case, for making an entry or distress or bringing an action to

Possession adverse to a tenant in tail shall run on against the remaindermen whom he might have barred.

recover such land or rent, no person claiming any estate, interest, or right which such tenant in tail might lawfully have barred shall make an entry or distress or bring an action to recover such land or rent but within the period during which, if such tenant in tail had so long continued to live, he might have made such entry or distress or brought such action.

Where there shall have been possession under an assurance, by a tenant in tail, which shall not bar the remainders, they shall be barred at the end of twenty years after the time when the assurance, if then executed, would have barred them.

XXIII. And be it further enacted, that when a tenant in tail of any land or rent shall have made an assurance thereof, which shall not operate to bar an estate or estates to take effect after or in defeasance of his estate tail, and any person shall by virtue of such assurance, at the time of the execution thereof, or at any time afterwards, be in possession or receipt of the profits of such land, or in the receipt of such rent, and the same person or any other person whatsoever (other than some person entitled to such possession or receipt in respect of an estate which shall have taken effect after or in defeasance of the estate tail,) shall continue or be in such possession or receipt for the period of twenty years next after the commencement of the time at which such assurance, if it had then been executed by such tenant in tail, or the person who would have been entitled to his estate tail if such assurance had not been executed, would, without the consent of any other person, have operated to bar such estate or estates as aforesaid, then at the expiration of such period of twenty years such assurance shall be and be deemed to have been effectual as against any person claiming any estate, interest, or right to take effect after or in defeasance of such estate tail.

No suit in equity to be brought after the time when the plaintiff, if entitled at law, might have brought an action.

XXIV. And be it further enacted, that after the said thirty-first day of December, one thousand eight hundred and thirty-three, no person claiming any land or rent in equity shall bring any suit to recover the same but within the period during which, by virtue of the provisions herein-before contained, he might have made an entry

or distress, or brought an action to recover the same respectively, if he had been entitled at law to such estate, interest, or right in or to the same as he shall claim therein in equity.

In cases of express trust, the right shall not be deemed to have accrued until a conveyance to a purchaser.

XXV. Provided always, and be it further enacted, that when any land or rent shall be vested in a trustee upon any express trust, the right of the *cestuique trust*, or any person claiming through him, to bring a suit against the trustee, or any person claiming through him, to recover such land or rent, shall be deemed to have first accrued, according to the meaning of this Act, at and not before the time at which such land or rent shall have been conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against such purchaser and any person claiming through him.

In cases of fraud no time shall run whilst the fraud remains concealed.

XXVI. And be it further enacted, that in every case of a concealed fraud the right of any person to bring a suit in equity for the recovery of any land or rent of which he, or any person through whom he claims, may have been deprived by such fraud, shall be deemed to have first accrued at and not before the time at which such fraud shall or with reasonable diligence might have been first known or discovered; provided that nothing in this clause contained shall enable any holder of lands or rents to have a suit in equity for the recovery of such lands or rents, or for setting aside any conveyance of such lands or rents, on account of fraud against any *bonâ fide* purchaser for valuable consideration who has not assisted in the commission of such fraud, and who at the time that he made the purchase did not know and had no reason to believe that any such fraud had been committed.

Saving the jurisdiction of equity on the ground of acquiescence or otherwise.

XXVII. Provided always, and be it further enacted, that nothing in this Act contained shall be deemed to interfere with any rule or jurisdiction of courts of equity in refusing relief on the ground of acquiescence or other-

wise to any person whose right to bring a suit may not be barred by virtue of this Act.

Mortgagor to be barred at the end of twenty years from the time when the mortgagee took possession, or from the last written acknowledgment.

XXVIII. And be it further enacted, that when a mortgagee shall have obtained the possession or receipt of the profits of any land, or the receipt of any rent, comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring a suit to redeem the mortgage but within twenty years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgment of the title of the mortgagor or of his right of redemption shall have been given to the mortgagor, or some person claiming his estate, or to the agent of such mortgagor or person, in writing signed by the mortgagee or the person claiming through him; and in such case no such suit shall be brought but within twenty years next after the time at which such acknowledgment, or the last of such acknowledgments if more than one, was given; and when there shall be more than one mortgagor, or more than one person claiming through the mortgagor or mortgagors, such acknowledgment, if given to any of such mortgagors or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons; but where there shall be more than one mortgagee, or more than one person claiming the estate or interest of the mortgagee or mortgagees, such acknowledgment, signed by one or more of such mortgagees or persons, shall be effectual only as against the party or parties signing as aforesaid, and the person or persons claiming any part of the mortgage money or land or rent by, from, or under him or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests, and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money or land

or rent; and where such of the mortgagees or persons aforesaid as shall have given such acknowledgment shall be entitled to a divided part of the land or rent comprised in the mortgage, or some estate or interest therein, and not to any ascertained part of the mortgaged money, the mortgagor or mortgagors shall be entitled to redeem the same divided part of the land or rent on payment, with interest, of the part of the mortgage money which shall bear the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent shall bear to the value of the whole of the land or rent comprised in the mortgage.

No lands or rents to be recovered by ecclesiastical or elesmosynary corporation sole but within two incumbencies and six years, or sixty years.

XXIX. Provided always, and be it further enacted, that it shall be lawful for any Archbishop, Bishop, Dean, Prebendary, Parson, Vicar, Master of Hospital, or other Spiritual or Eleemosynary Corporation Sole, to make an entry or distress or to bring an action or suit to recover any land or rent within such period as herein-after is mentioned next after the time at which the right of such Corporation Sole, or of his predecessor, to make such entry or distress or bring such action or suit shall first have accrued; (that is to say,) the period during which two persons in succession shall have held the office or benefice in respect whereof such land or rent shall be claimed, and six years after a third person shall have been appointed thereto, if the times of such two incumbencies and such term of six years taken together shall amount to the full period of sixty years; and if such times taken together shall not amount to the full period of sixty years, then during such further number of years in addition to such six years as will, with the time of the holding of such two persons and such six years, make up the full period of sixty years; and after the said thirty-first day of December one thousand eight hundred and thirty-three no such entry, distress, action, or suit shall be made or brought at any time beyond the determination of such period.

No advowson to be recovered but within three incumbencies or sixty years.

XXX. And be it further enacted, that after the said thirty-first day of December one thousand eight hundred and thirty-three no person shall bring any quare impedit or other action or any suit to enforce a right to present to or bestow any Church, Vicarage, or other Ecclesiastical Benefice, as the patron thereof, after the expiration of such period as herein-after is mentioned; (that is to say,) the period during which three clerks in succession shall have held the same, all of whom shall have obtained possession thereof adversely to the right of presentation or gift of such person, or of some person through whom he claims, if the times of such incumbencies taken together shall amount to the full period of sixty years; and if the time of such incumbencies shall not together amount to the full period of sixty years, then after the expiration of such further time as with the times of such incumbencies will make up the full period of sixty years.

Incumbencies after lapse to be reckoned within the period, but not incumbencies after promotions to bishopricks.

XXXI. Provided always, and be it further enacted, that when on the avoidance, after a clerk shall have obtained possession of an Ecclesiastical Benefice adversely to the right of presentation or gift of the patron thereof, a clerk shall be presented or collated thereto by his Majesty or the ordinary by reason of a lapse, such last mentioned clerk shall be deemed to have obtained possession adversely to the right of presentation or gift of such patron as aforesaid; but when a clerk shall have been presented by his Majesty upon the avoidance of a benefice in consequence of the incumbent thereof having been made a Bishop, the incumbency of such clerk shall, for the purposes of this Act, be deemed a continuation of the incumbency of the clerk so made Bishop.

When person claiming an advowson in remainder, &c. after an estate tail, shall be barred.

XXXII. And be it further enacted, that in the construction of this Act every person claiming a right to present to or bestow any Ecclesiastical Benefice, as patron thereof, by virtue of any estate, interest, or right

which the owner of an estate tail in the advowson might have barred, shall be deemed to be a person claiming through the person entitled to such estate tail, and the right to bring any quare impedit, action or suit, shall be limited accordingly.

No advowson to be recovered after 100 years.

XXXIII. Provided always, and be it further enacted, that after the said thirty-first day of December one thousand eight hundred and thirty-three no person shall bring any quare impedit or other action or any suit to enforce a right to present to or bestow any Ecclesiastical Benefice, as the patron thereof, after the expiration of one hundred years from the time at which a clerk shall have obtained possession of such benefice adversely to the right of presentation or gift of such person, or of some person through whom he claims, or of some person entitled to some preceding estate or interest, or undivided share or alternate right of presentation or gift, held or derived under the same title, unless a clerk shall subsequently have obtained possession of such benefice on the presentation or gift of the person so claiming, or of some person through whom he claims, or of some other person entitled in respect of an estate, share, or right held or derived under the same title.

At the end of the period of limitation the right of the party out of possession to be extinguished.

XXXIV. And be it further enacted, that at the determination of the period limited by this Act to any person for making an entry or distress, or bringing any writ of quare impedit or other action or suit, the right and title of such person to the land, rent, or advowson for the recovery whereof such entry, distress, action, or suit respectively might have been made or brought within such period shall be extinguished.

Receipt of rent to be deemed receipt of profits.

XXXV. And be it further enacted, that the receipt of the rent payable by any tenant from year to year, or other lessee, shall, as against such lessee or any person claiming under him (but subject to the lease), be deemed to be the

receipt of the profits of the land for the purposes of this Act.

Real and mixed actions abolished after the 31st December 1834.

XXXVI. And be it further enacted, that no writ of right patent, writ of right quia dominus remisit curiam, writ of right in capite, writ of right in London, writ of right close, writ of right de rationabili parte, writ of right of advowson, writ of right upon disclaimer, writ de rationabilibus divisis, writ of right of ward, writ de consuetudinibus et servitiis, writ of cessavit, writ of escheat, writ of quo jure, writ of secta ad molendinum, writ de essendo quietum de theolonio, writ of ne injuste vexes, writ of mesne, writ of quod permittat, writ of formedon in descender, in remainder, or in reverter, writ of assize of novel disseisin, nuisance, darrein-presentment, juris utrum, or mort d'ancestor, writ of entry sur disseisin, in the quibus, in the per, in the per and cui, or in the post, writ of entry sur intrusion, writ of entry sur alienation dum fuit non compos mentis, dum fuit infra ætatem, dum fuit in prisona, ad communem legem, in casu proviso, in consimili casu, cui in vita, sur cui in vita, cui ante divortium, or sur cui ante divortium, writ of entry sur abatement, writ of entry quare ejecit infra terminum, or ad terminum qui præteriit, or causa matrimonii prælocuti, writ of aiel, besaiel, tresaiel, cosinage, or nuper obiit, writ of waste, writ of partition, writ of deceit, writ of quod ei deforceat, writ of covenant real, writ of warrantia chartæ, writ of curia claudenda, or writ per quæ servitia, and no other action, real or mixed, (except a writ of right of dower, or writ of dower unde nihil habet, or a quare impedit, or an ejectment,) and no plaint in the nature of any such writ or action (except a plaint for freebench or dower), shall be brought after the thirty-first day of December one thousand eight hundred and thirty-four.

except for dower, quare impedit, and ejectment.

Real actions may be brought until the 1st June 1835.

XXXVII. Provided always, and be it further enacted, that when, on the said thirty-first day of December one thousand eight hundred and thirty-four, any person who

shall not have a right of entry to any land shall be entitled to maintain any such writ or action as aforesaid in respect of such land, such writ or action may be brought at any time before the first day of June one thousand eight hundred and thirty-five in case the same might have been brought if this Act had not been made, notwithstanding the period of twenty years herein-before limited shall have expired.

Saving the rights of persons entitled to real actions only at the commencement of the Act, &c.

XXXVIII. Provided also, and be it further enacted, that when on the said first day of June one thousand eight hundred and thirty-five, any person whose right of entry to any land shall have been taken away by any descent cast, discontinuance, or warranty, might maintain any such writ or action as aforesaid in respect of such land, such writ or action may be brought after the said first day of June one thousand eight hundred and thirty-five, but only within the period during which by virtue of the provisions of this Act an entry might have been made upon the same land by the person bringing such writ or action if his right of entry had not been so taken away.

No descent warranty, &c. to bar a right of entry.

XXXIX. And be it further enacted, that no descent cast, discontinuance, or warranty which may happen or be made after the said thirty-first day of December one thousand eight hundred and thirty-three shall toll or defeat any right of entry or action for the recovery of land.

Money charged upon land and legacies to be deemed satisfied at the end of twenty years if there shall be no interest paid or acknowledgment in writing in the meantime.

XL. And be it further enacted, that after the said thirty-first day of December one thousand eight hundred and thirty-three no action or suit or other proceeding shall be brought to recover any sum of money secured by any mortgage, judgment, or lien, or otherwise charged upon or payable out of any land or rent, at law or in equity, or any legacy, but within twenty years next after a present right to receive the same shall have accrued to some person capable of giving a discharge for or release

of the same, unless in the meantime some part of the principal money, or some interest thereon, shall have been paid, or some acknowledgment of the right thereto shall have been given in writing signed by the person by whom the same shall be payable, or his agent, to the person entitled thereto, or his agent; and in such case no such action or suit or proceeding shall be brought but within twenty years after such payment or acknowledgment, or the last of such payments or acknowledgments if more than one was given.

No arrears of dower to be recovered for more than six years.

XLI. And be it further enacted, that after the said thirty-first day of December one thousand eight hundred and thirty-three no arrears of dower, nor any damages on account of such arrears, shall be recovered or obtained by any action or suit for a longer period than six years next before the commencement of such action or suit.

No arrears of rent or interest to be recovered for more than six years.

XLII. And be it further enacted, that after the said thirty-first day of December one thousand eight hundred and thirty-three no arrears of rent or of interest in respect of any sum of money charged upon or payable out of any land or rent, or in respect of any legacy, or any damages in respect of such arrears of rent or interest, shall be recovered by any distress, action, or suit, but within six years next after the same respectively shall have become due, or next after an acknowledgment of the same in writing shall have been given to the person entitled thereto, or his agent, signed by the person by whom the same was payable, or his agent: Provided nevertheless, that where any prior mortgagee or other incumbrancer shall have been in possession of any land, or in the receipt of the profits thereof, within one year next before an action or suit shall be brought by any person entitled to a subsequent mortgage or other incumbrance on the same land, the person entitled to such subsequent mortgage or incumbrance may recover in such action or suit the arrears of interest which shall have become due

during the whole time that such prior mortgagee or incumbrancer was in such possession or receipt as aforesaid, although such time may have exceeded the said term of six years.

Act to extend to the Spiritual Courts.

XLIII. And be it further enacted, that after the said thirty-first day of December one thousand eight hundred and thirty-three no person claiming any tithes, legacy, or other property for the recovery of which he might bring an action or suit at law or in equity shall bring a suit or other proceeding in any Spiritual Court to recover the same but within the period during which he might bring such action or suit at law or in equity.

Act not to extend to Scotland, nor to advowsons in Ireland.

XLIV. Provided always, and be it further enacted, that this Act shall not extend to Scotland, and shall not, so far as it relates to any right to permit to or bestow any church, vicarage, or other ecclesiastical benefice, extend to Ireland.

Act may be amended.

XLV. And be it further enacted, that this Act may be amended, altered, or repealed during this present Session of Parliament.

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5 & 6 WILL. IV. CAP. 76.

An Act to provide for the Regulation of Municipal Corporations in England and Wales.

[*9th September*, 1835.]

Charitable trustees.

LXXI. AND whereas divers bodies corporate now stand seised or possessed of sundry hereditaments and personal estate, in trust, in whole or in part, for certain charitable trusts, and it is expedient that the administration thereof be kept distinct from that of the public stock and borough fund; be it enacted, that in every borough in which the body corporate, or any one or more

of the members of such body corporate, in his or their corporate capacity, now stands or stand solely, or together with any person or persons elected solely by such body corporate, or solely by any particular number, class, or description of members of such body corporate seised or possessed for any estate or interest whatsoever of any hereditaments, or any sums of money, chattels, securities for money, or any other personal estate whatsoever, in whole or in part in trust or for the benefit of any charitable uses or trusts whatsoever, all the estate, right, interest, and title, and all the powers of such body corporate, or of such member or members of such body corporate, in respect of the said uses and trusts, shall continue in the persons who at the time of the passing of this Act are such trustees as aforesaid, notwithstanding that they may have ceased to hold any office by virtue of which before the passing of this Act they were such trustees, until the first day of August one thousand eight hundred and thirty-six, or until parliament shall otherwise order, and shall immediately thereupon utterly cease and determine: provided always, that if any vacancy shall be occasioned among the charitable trustees for any borough before the said first day of August, it shall be lawful for the Lord High Chancellor or lords commissioners of the Great Seal for the time being, upon petition in a summary way, to appoint another trustee to supply such vacancy: and every person so appointed a trustee as last aforesaid shall be a trustee until the time at which the person in the room of whom he was chosen would regularly have ceased to be a trustee, and he shall then cease to be a trustee: Provided also, that if parliament shall not otherwise direct, on or before the said first day of August one thousand eight hundred and thirty-six, the Lord High Chancellor or lords commissioners of the Great Seal shall make such orders as he or they shall see fit for the administration, subject to such charitable uses or trusts as aforesaid, of such trust estates.

7 WILL. IV. & 1 VICT. CAP. 78.

An Act to amend an Act for the Regulation of Municipal Corporations in England and Wales.

[17*th July*, 1837.]

Manner of transferring corporate property standing in the Bank books, &c.

XLV. AND be it enacted, that any stocks, funds, or public securities which may be standing in the books of the governor and company of the Bank of England, or of any other public company or society, in the name of the mayor, aldermen, and burgesses of any borough, either under their present or under any former style or title of incorporation, and the dividends and interest thereof, and all bonuses and accretions thereunto, which shall belong to the body corporate of such borough, without being subject to any trust for charitable purposes, may be transferred by and paid to such person or persons as the council of the said body corporate shall appoint by an instrument in writing under the corporate seal of the borough; provided that such instrument of appointment shall be signed and sealed also by the clerk to the charitable trustees of the borough, who is hereby directed, upon request, to sign and seal the same.

Manner of transferring charitable property standing in the Bank books, &c.

XLVI. And be it enacted, that any stocks, funds, securities, and monies standing as aforesaid (*a*) in the name of any such body corporate, which shall belong to the charitable trustees of the borough solely upon some charitable trust or trusts, may be transferred by and paid to such person or persons as shall be appointed under the hands and seals of the greater part of the trustees, which appointment shall be attested under the hand and seal of the said clerk, provided that such instrument as last aforesaid shall be also sealed with the

(*a*) See preceding section.

corporate seal of the borough, and the mayor of the borough is hereby required, upon request, to cause the seal of the borough to be affixed to such instrument of nomination.

How dividends of charitable and corporate property standing in the Bank books, &c. shall be paid.

XLVII. And be it enacted, that the dividends and interest of any stocks, funds, securities, and monies standing as aforesaid in the name of any such body corporate which shall belong partly to the said body corporate, but subject to some charitable trust or trusts, may be paid to such person or persons as shall be authorized to have the same paid to him or them, by an instrument in writing under the corporate seal of the borough, and appointed under the hands and seals of the greater part of the trustees, which appointment shall be attested under the hand and seal of the said clerk.

Receipts for monies and application thereof.

XLVIII. And be it enacted, that in every case the receipt of the person or persons authorized to give a receipt to the said company or society, by any instrument under the corporate seal of the said borough, and also signed and sealed by the clerk to the charitable trustees, shall be an effectual discharge to the said company or society, and all monies so paid shall be applied to the uses and in the manner provided by the said Act; that is to say, so much of the said monies as may be held on charitable trusts, shall be paid over to the charitable trustees of the said borough, and so much as the said body corporate shall be entitled to beneficially shall be paid over to the treasurer of the borough, and applied as directed by the said Act as part of the borough fund; but no such public company or society as aforesaid shall be bound to see to the due application thereof, or to the validity of the appointment of the clerk to the charitable trustees or to the execution of any such instrument by any of the said trustees, or to inquire whether or not the said stocks, funds, securities or monies are charged with or held upon any charitable trust; and every person autho-

rized to receive any monies under this Act shall account to the council and to the charitable trustees respectively for all monies so received by him, and the council and trustees respectively shall have the same remedies against any such person refusing or wilfully neglecting so to account as are provided by the said Act for regulating corporations, in the case of a treasurer or other officer appointed by the council, refusing or wilfully neglecting to account, as provided by the said Act, during the continuance of his office, or within three months after the expiration of his office.

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3 & 4 VICT. CAP. 77.

An Act for improving the Condition and extending the Benefits of Grammar Schools.

[*7th August*, 1840.]

WHEREAS there are in England and Wales many endowed schools, both of royal and private foundation, for the education of boys or youth wholly or principally in grammar; and the term "Grammar" has been construed by courts of equity as having reference only to the dead languages, that is to say, Greek and Latin: and whereas such education, at the period when such schools or the greater part were founded, was supposed not only to be sufficient to qualify boys or youth for admission to the universities, with a view to the learned professions, but also necessary for preparing them for the superior trades and mercantile business: and whereas from the change of times and other causes such education, without instruction in other branches of literature and science, is now of less value to those who are entitled to avail themselves of such charitable foundations, whereby such schools have, in many instances, ceased to afford a substantial fulfilment of the intentions of the founders; and the system of education in such grammar schools

ought therefore to be extended and rendered more generally beneficial, in order to afford such fulfilment; but the patrons, visitors, and governors thereof are generally unable of their own authority to establish any other system of education than is expressly provided for by the foundation, and Her Majesty's courts of law and equity are frequently unable to give adequate relief, and in no case but at considerable expence: and whereas in consequence of changes which have taken place in the population of particular districts it is necessary, for the purpose aforesaid, that in some cases the advantages of such grammar schools should be extended to boys other than those to whom by the terms of the foundation or the existing statutes the same is now limited, and that in other cases some restriction should be imposed, either with reference to the total number to be admitted into the school, or as regards their proficiency at the time when they may demand admission; but in this respect also the said patrons, visitors, and governors, and the courts of equity, are frequently without sufficient authority to make such extension or restriction: and whereas it is expedient that in certain cases grammar schools in the same place should be united: and whereas no remedy can be applied in the premises without the aid of parliament: be it therefore declared and enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that whenever, after the passing of this Act, any question may come under consideration in any of Her Majesty's courts of equity concerning the system of education thereafter to be established in any grammar school, or the right of admission into the same, whether such question be already pending, or whether the same shall arise upon any information, petition, or other proceedings which may be now or at any time hereafter filed or instituted, for whatever cause the same may have been or may be instituted,

Courts of Equity empowered, whensver a question comes before them, to make decrees or orders extending the system of education and the right of admission into any school, and to establish schemes for the

according to the ordinary course of proceedings in courts of equity or under the provisions of this Act, it shall be lawful for the court to make such decrees or orders as to the said court shall seem expedient, as well for extending the system of education to other useful branches of literature and science in addition to or (subject to the provisions herein-after contained) in lieu of the Greek and Latin languages, or such other instruction as may be required by the terms of the foundation or the then existing statutes, as also for extending or restricting the freedom or the right of admission to such school, by determining the number or the qualifications of boys who may thereafter be admissible thereto, as free scholars or otherwise, and for settling the terms of admission to and continuance in the same, and to establish such schemes for the application of the revenues of any such schools as may in the opinion of the court be conducive to the rendering or maintaining such schools in the greatest degree efficient and useful, with due regard to the intentions of the respective founders and benefactors, and to declare at what period and upon what event such decrees or orders, or any directions contained therein, shall be brought into operation, and that such decrees and orders shall have force and effect notwithstanding any provisions contained in the instruments of foundation, endowment, or benefaction, or in the then existing statutes: provided always, that in case there shall be any special visitor appointed by the founder, or other competent authority, opportunity shall be given to such visitor to be heard on the matters in question, in such manner as the court shall think proper, previously to the making such decrees or orders.

Application of its revenues, having due regard to the intentions of the founder.

II. Provided always, and be it enacted, that in making any such decree or order the court shall consider and have regard to the intentions of the founders and benefactors of every such grammar school, the nature

Before making such decrees the courts shall consider the intentions of the founders,

the state of school, &c.

and extent of the foundation and endowment, the rights of parties interested therein, the statutes by which the same has been hitherto governed, the character of the instruction theretofore afforded therein, and the existing state and condition of the said school, and also the condition, rank, and number of the children entitled to and capable of enjoying the privilege of the said school, and of those who may become so capable if any extended or different system of education, or any extension of the right of admission to the said school, or any new statutes, shall be established.

Court not to dispense with the principal objects, or the qualifications required, unless revenues are insufficient.

III. Provided also, and be it enacted, that, unless it shall be found necessary from the insufficiency of the revenues of any grammar school, nothing in this Act contained shall be construed as authorizing the court to dispense with the teaching of Latin and Greek, or either of such languages, now required to be taught, or to treat such instruction otherwise than as the principal object of the foundation; nor to dispense with any statute or provision now existing, so far as relates to the qualification of any schoolmaster or under master.

Standard of admission not to be lowered where Greek and Latin is retained.

IV. Provided also, and be it enacted, that in extending, as herein-before provided, the system of education or the right of admission into any grammar school in which the teaching of Greek or Latin shall be still retained, the court shall not allow of the admission of children of an earlier age or of less proficiency than may be required by the foundation or existing statutes, or may be necessary to show that the children are of capacity to profit by the kind of education designed by the founder.

Where the teaching of Greek and Latin is dispensed with, analogous instruction to be substituted, &c.

V. Provided also, and be it enacted, that whenever, on account of the insufficiency of the revenues of any grammar school, the court shall think fit to dispense with the teaching of Greek or Latin, the court shall prescribe such a course of instruction, and shall require

such qualifications in the children at the period of their admission, as will tend to maintain the character of the school as nearly as, with reference to the amount of the revenues, it may be analogous to that which was contemplated by the founder; and that whenever, on the like account, the court shall think fit to dispense with any statute or provision as far as relates to the qualification of any schoolmaster or under master, the court shall substitute such qualification as will provide for every object implied in the original qualification, which may be capable of being retained notwithstanding such insufficiency of the revenues.

Qualifications of new schoolmasters and right of appointment regulated.

VI. Provided also, and be it enacted, that in case the appointment of any additional schoolmaster or under master shall be found necessary for the purpose of carrying the objects of this Act into execution, the court shall require the same qualification in such new schoolmaster or under master respectively as may be required by the existing statutes in the present schoolmaster or under master, except such as may be wholly referable to their capability of giving instruction in any particular branch of education; but that every other qualification implied in the qualification of the original schoolmaster or under master, and capable of being retained, shall be retained and required in such new schoolmaster or under master; and the court shall also in such case declare in whom the appointment of such new schoolmaster or under master shall be vested, so as to preserve as far as may be the existing rights of all parties with regard to patronage.

Schools to be grammar schools, though Greek and Latin dispensed with, and masters subject to the ordinary.

VII. Provided also, and be it enacted, that although under the provisions herein-before contained the teaching of Greek or Latin in any grammar school may be dispensed with, every such school, and the masters thereof, shall be still considered as grammar schools and grammar schoolmasters, and shall continue subject to the

jurisdiction of the ordinary as heretofore; and that no person shall be authorized to exercise the office of schoolmaster or under master therein without having such licence, or without having made such oath, declaration, or subscription as may be required by law of the schoolmasters or under masters respectively of other grammar schools.

Extension of right of admission not to prejudice existing rights.

VIII. Provided also, and be it enacted, that whenever the court shall think fit to extend the freedom of or the right of admission into any grammar school, such extension shall be so qualified by the court that none of the boys who are by the foundation or existing statutes entitled to such privilege shall be excluded, by the admission of other boys into the said school, either from such school itself or from competition for any exhibition or other advantage connected therewith.

Where several schools are in one place and the revenues of any are insufficient, they may be united.

IX. And be it enacted, that in case there shall be in any city, town, or place any grammar school or grammar schools, the revenues of which shall of themselves be insufficient to admit of the purposes of their founder or founders being effected, but which revenues if joined to the revenues of any other grammar school or grammar schools in the same city, town, or place would afford the means of effecting the purposes of the founders of such several schools, it shall be lawful for the court of chancery to direct such schools to be united, and the revenues of the schools so united to be applied to the support of one school to be formed by such union, and which shall be carried on according to a scheme to be settled for that purpose under the direction of the said court: provided always, that before application shall be made to the court to direct such union the consent of the visitor, patron, and governors of every school to be effected thereby shall be first obtained.

Consents necessary to union.

Present school-

X. Provided always, and be it enacted, That no new

statutes affecting the duties or emoluments of any schoolmaster or under master shall be brought into operation as regards any such master who shall have been appointed previously to the passing of this Act without his consent in writing; but that in case any such schoolmaster or under master as last aforesaid shall be unwilling to give such consent as aforesaid, and shall be desirous or willing to resign his office on receiving a retiring pension, it shall be lawful for the governors, if there be any competent to act, or if there be no such governors, for the visitor, to assign to such master such pension as to them or him (as the case may be) shall seem reasonable from the time of his resignation, which pension, if approved as herein-after mentioned, the trustees of the said school are hereby authorized and required to pay to him, or his order, according to the terms of such assignment.

masters not to be affected, but to be at liberty to resign on receiving pensions.

XI. And be it enacted, that any schoolmaster appointed in any grammar school after the passing of this Act shall receive his appointment subject to such new statutes as may be made and confirmed by the Court of Chancery, in pursuance of any proceedings which may be commenced under this Act, within six months after such vacancy shall have occurred.

How new appointment of master to be made.

XII. Provided always, and be it enacted, that the term on the expiration of which any right of nomination or appointment of the master in any grammar school would otherwise lapse shall, on the first avoidance of the office which shall occur after the passing of this Act, be computed from the time of the confirmation of the new statutes by which the school is to be in future governed, or if no proceedings are pending for the purpose of having statutes established from the expiration of the time within which such proceedings may be instituted, and not from the time of the avoidance.

Lapse of right of nomination of master shall take place from time of settling the new statutes.

XIII. And whereas it is expedient that the discipline

Where suffi-

cient powers of discipline exist, the persons possessing to be at liberty to exercise them.

of grammar schools should be more fully enforced; be it declared and enacted, that in all cases in which sufficient powers, to be exercised by way of visitation or otherwise in respect of the discipline of such schools, shall already exist and be vested in any person or persons, it shall be lawful for such person or persons to exercise the same when and so often as they shall deem fit, either by themselves personally or by commission, without being first requested or required so to do, and likewise to direct such returns to be made by the masters of such schools, of the state thereof, of the books used therein, and of such other particulars as he or they may think proper, and also to order such examinations to be held into the proficiency of the scholars attending the same as to him or them may seem expedient.

Where such powers not sufficient, court may enlarge them.

XIV. And be it enacted, that in all cases in which any person or persons, having authority, by way of visitation or otherwise, in respect of the discipline of any grammar school, may not have sufficient power properly to enforce the same, it shall be lawful for the Court of Chancery to order and direct that the powers of such person or persons shall be enlarged to such extent and in such manner, and subject to such provisions, as to the said court shall seem fit.

Where no such powers, court may create them.

XV. And be it enacted, that in all cases in which no authority to be exercised by way of visitation in respect of the discipline of any grammar school is now vested in any known person or persons, it shall be lawful for the bishop of the diocese wherein the same is locally situated to apply to the Court of Chancery, stating the same; and the said court shall have power if it so think fit to order that the said bishop shall be at liberty to visit and regulate the said school in respect of the discipline thereof, but not further or otherwise.

Court of Chan-

XVI. And be it enacted, that in event of the person

or persons by whom powers of visitation in respect of the discipline of any grammar school ought to be exercised refusing or neglecting so to do within a reasonable time after the same ought to be exercised, or in the event of its being uncertain in whom the right to exercise such powers is vested, such powers shall be exercised *pro hâc vice* by some person specially appointed by the authority of the Court of Chancery, on application made by any person or persons interested in such grammar school: provided always, that nothing herein contained shall exempt any visitor from being compelled by any process to which he is now amenable to perform any Act which he is now compellable to perform.

Cery may substitute a person to act *pro hâc vice* in certain cases.

Proviso.

XVII. And whereas it is expedient to provide for the more easy removal of unfit and improper masters; be it declared and enacted, that it shall be lawful for the Court of Chancery to empower the person or persons having powers of visitation in respect of the discipline of any grammar school, or who shall be specially appointed to exercise the same under this Act, and the governors, or either of them, after such inquiries and by such mode of proceeding as the court shall direct, to remove any master of any grammar school who has been negligent in the discharge of his duties, or who is unfit or incompetent to discharge them properly and efficiently, either from immoral conduct, incapacity, age, or from any other infirmity or cause whatsoever.

Court of Chancery to have power to appoint mode of removing masters.

XVIII. Provided always, and be it enacted, that in case the cause for which any master be removed shall be incompetency from age or other infirmity, it shall be lawful for the said governors, with the approbation of the visitor, to assign to the use of such master any portion of the annual revenues of the said grammar school in one or more donations, or by way of annuity determinable on the death of such master, or on any other specified event during his life, or to assign to him any part of the estate

Power in certain cases to assign retiring pension.

of the said grammar school for his occupation for a term determinable in like manner; provided that there shall remain sufficient means to provide for the efficient performance of the duties which belong to the office from which such master shall be removed.

Premises held over by masters dismissed, or ceasing to hold office, to be recovered in a summary way.

XIX. And for the more speedy and effectual recovery of the possession of any premises belonging to any grammar school which the master who shall have been dismissed as aforesaid, or any person who shall have ceased to be master, shall hold over after his dismissal or ceasing to be master, except under such assignment as may have been made under the provisions of this Act, the term of such assignment being still unexpired, and the premises assigned being in the actual occupation of the master so dismissed or ceased to be master, be it enacted, that when and as often as any master holding any schoolroom, schoolhouse, or any other house, land, or tenement, by virtue of his office, or as tenant or otherwise under the trustees of the said grammar school, except on lease for a term of years still unexpired, shall have been dismissed as aforesaid, or shall have ceased to be master, and such master, or (if he shall not actually occupy the premises or shall only occupy a part thereof) any person by whom the same or any part thereof shall be then actually occupied, shall neglect or refuse to quit and deliver up possession of the premises, or of such part thereof respectively, except such as are herein-before excepted, within the space of three months after such dismissal or ceasing to be master, it shall be lawful for justices of the peace acting for the district or division in which such premises or any part thereof are situated, in petty sessions assembled, or any two of them, and they are hereby required, on the complaint of the said trustees or their agents, and on the production of an order of the Court of Chancery declaring such master to have been duly dismissed or to have ceased to be master, to issue a warrant, under their hands and seals, to the constables

and peace officers of the said district or division, commanding them, within a period to be therein named, not less than ten nor more than twenty-one clear days from the date of such warrant, to enter into the premises, and give possession of the same to the said trustees or their agents, in such manner as any justices of the peace are empowered to give possession of any premises to any landlord or his agent under an Act passed in the Session of Parliament held in the first and second years of the reign of Her present Majesty, intituled "An Act to facilitate the recovery of possession of tenements after due determination of the tenancy." 1 & 2 Vict. c. 74. (a)

Master shall not set up title, &c.

XX. Provided always, and be it enacted, that nothing in this Act or the said recited Act shall extend or be construed to extend to enable any master so dismissed, or ceasing to be master as aforesaid, to call in question the validity of such dismissal, provided that the same shall have proceeded from the persons authorized to order the same, after such inquiries and by such mode of proceeding as required in that behalf, or to call in question the title of the trustees to possession of any premises of which such master shall have become possessed by virtue of his late office, or as tenant or otherwise under the trustees of the said grammar school for the time being.

Applications to court to be made by petition.

XXI. And whereas it is expedient to facilitate applications to the Court of Chancery under this Act; be it enacted, that all applications may be heard and determined and all powers given by this Act to the Court of Chancery may be exercised in cases brought before such court by petition only, such petitions to be presented, heard, and determined according to the provisions of an Act passed in the fifty-second year of the reign of His late Majesty King George the Third, intituled "An Act

Such petitions to be decided under 52 Geo. 3, c. 101.

(a) See this Act, *post*, p. 261.

to provide a summary remedy in cases of abuses of trusts created for charitable purposes."

If Crown is patron, Lord High Chancellor or Chancellor of the Duchy of Lancaster shall act.

XXII. And be it enacted, that in every case in which the patronage of any grammar school, or right of appointing the schoolmaster or under master thereof, is vested in the crown, the Lord High Chancellor, or the Chancellor of the Duchy of Lancaster in respect of any grammar school within the County Palatine of Lancaster, shall be considered as the patron of such grammar school for the purposes of this Act.

Powers of Lord Chancellor to be exercised by Lord Keeper, &c.

XXIII. And be it enacted, that the powers and authorities herein-before given to the Lord High Chancellor shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Lords Commissioners for the custody of the great seal respectively for the time being.

Saving of rights of ordinary.

XXIV. Provided always, and be it enacted, that neither this Act nor anything therein contained shall be any way prejudicial or hurtful to the jurisdiction or power of the ordinary, but that he may lawfully execute and perform the same as heretofore he might according to the statutes, common law, and canons of this realm, and also as far as he may be further empowered by this Act; and that this Act shall not be construed as extending to any of the following institutions; (that is to say), to the Universities of Oxford or Cambridge, or to any college or hall within the same, or to the University of London, or any colleges connected therewith, or to the University of Durham, or to the colleges of Saint David's, or Saint Bee's, or the grammar schools of Westminster, Eton, Winchester, Harrow, Charter House, Rugby, Merchant Taylors', Saint Paul's, Christ's Hospital, Birmingham, Manchester, or Macclesfield, or Louth, or such schools as form part of any cathedral or collegiate church.

Certain foundations exempted from this Act.

Construction of terms.

XXV. And be it enacted, that in the construction and for the purposes of this Act, unless there be something in the subject or context repugnant to such construction, the word "grammar school" shall mean and include all endowed schools, whether of royal or other foundation, founded, endowed, or maintained for the purpose of teaching Latin and Greek, or either of such languages, whether in the instrument of foundation or endowment, or in the statutes or decree of any court of record, or in any Act of parliament establishing such school, or in any other evidences or documents, such instruction shall be expressly described, or shall be described by the word "grammar," or any other form of expression which is or may be construed as intending Greek or Latin, and whether by such evidences or documents as aforesaid, or in practice, such instruction be limited exclusively to Greek or Latin, or extended to both such languages, or to any other branch or branches of literature or science in addition to them or either of them; and that the words "grammar school" shall not include schools not endowed, but shall mean and include all endowed schools which may be grammar schools by reputation, and all other charitable institutions and trusts, so far as the same may be for the purpose of providing such instruction as aforesaid; that the word "visitor" shall mean and include any person or persons in whom shall be vested solely or jointly the whole or such portion of the visitatorial power as regards the subject of the enactment or provision, or any powers in regard to the discipline or making of new statutes in any school; that the word "governors" shall mean and include all persons or corporations, whether sole or aggregate, by whatever name they may be styled, who may respectively have the government, management, or conduct of any grammar school, whether they have also any control over the revenues of the school as trustees or not; that the word "trustees" shall mean and include all persons and corporations, sole or aggregate, by whatever name they may be styled, who shall

have the management, disposal, and control over the revenues of any grammar school, whether the property be actually vested in them or not; that the word "statutes" shall mean and include all written rules and regulations by which the school, schoolmasters, or scholars are, shall, or ought to be governed, whether such rules or regulations are comprised in, incorporated with, or authorized by any royal or other charter, or other instrument of foundation, endowment, or benefaction, or declared or confirmed by Act of parliament, or by decree of any court of record, and also all rules and regulations which shall be unwritten, and established only by usage or reputation; that the word "schoolmaster" shall mean and include the head master only, and the word "under master" every master, usher, or assistant in any school except the head master; and that the word "master" shall mean and include as well any head master as under master; that the words "discipline" or "management" of a school shall mean and include all matters respecting the conduct of the masters or scholars, the method and times of teaching, the examination into the proficiency of the scholars of any school, and the ordering of returns or reports with reference to such particulars, or any of them; and that any word importing the singular number only shall mean and include several persons or things as well as one person or thing, and the converse.

Act may be amended this session.

XXVI. And be it enacted, that this Act may be amended or repealed by any Act to be passed in this present session of parliament.

23 VICT. CAP. 11.

An Act to amend the Law relating to Endowed Schools.

[31*st March*, 1860.]

WHEREAS it is expedient that some restrictions upon the government and teaching of certain endowed schools should be removed or modified: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:—

Power to trustees of endowed schools to make orders for the admission of children of denominations herein stated.

I. It shall be lawful for the trustees or governors of every endowed school from time to time to make, and they shall be bound to make, such orders as, whilst they shall not interfere with the religious teaching of the other scholars as now fixed by statute or other legal requirement, and shall not authorize any religious teaching other than that previously afforded in the school, shall nevertheless provide for admitting to the benefits of the school the children of parents not in communion with the church, sect, or denomination according to the doctrines or formularies of which religious instruction is to be afforded under the endowment of the said school: provided that in the will or wills, deed or deeds, or other instrument or instruments regulating such endowment, nothing be contained expressly requiring the children educated under such endowment to learn or to be instructed according to the doctrines or formularies of such church, sect, or denomination.

Act not to apply to certain institutions or to Scotland or Ireland.

II. This Act shall not apply to any of the institutions mentioned in section twenty-four (*a*) of the Act of the

(*a*) 3 & 4 Vict. c. 77, sec. 24, not to extend to Universities of Oxford or Cambridge, or any college or hall within the same, the university of London

third and fourth of Victoria, chapter seventy-seven, intituled "An Act for improving the Condition and extending the Benefits of Grammar Schools," nor to any school established or to be established by or in union with or to be in union with the "National Society for promoting the Education of the Poor in the principles of the Established Church," nor to any institution maintained wholly by voluntary subscriptions, or partly by voluntary subscriptions and partly by school payments, nor to Scotland or Ireland.

Short title.

III. This act may be cited as "The Endowed Schools Act, 1860."

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4 & 5 VICT. CAP. 38.

An Act to afford further facilities for the Conveyance and Endowment of Sites for Schools.

[21*st June*, 1841.]

WHEREAS it is expedient that greater facilities should be given for the erection of schools and buildings for the purposes of education: may it therefore please your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act an Act passed in the session held in the sixth and seventh years of the reign of His late Majesty King William the Fourth, intituled "An Act to facilitate the conveyance of Sites for Schoolrooms," shall be and the same is hereby repealed; provided that all matters and things done in

Repeal of 6 & 7 Will. 4, c. 70; but things done in pursuance thereof declared valid, and those commenced to be continued according to this Act.

or any colleges connected therewith, the university of Durham, the colleges of Saint David's or Saint Bee's, the grammar schools of Westminster, Eton, Winchester, Harrow, Charter House, Rugby, Merchant Taylors', Saint Paul's, Christ's Hospital, Birmingham, Manchester, Macclesfield, or Louth, or such schools as form part of any cathedral or collegiate church.

pursuance of the said Act shall be and remain valid as though the said Act was not repealed; and all matters and things commenced in pursuance of the said Act shall be continued according to the provisions of this Act, if the same shall be applicable, otherwise shall be continued conformably to the said recited Act, which shall be deemed to be still in force with regard to such proceedings.

Landlords empowered to convey land to be used as sites for schools, &c.

II. And be it enacted, that any person being seised in fee simple, fee tail, or for life, of and in any manor or lands of freehold, copyhold, or customary tenure, and having the beneficial interest therein, or in Scotland being the proprietor in fee simple or under entail, and in possession for the time being, may grant, convey, or enfranchise by way of gift, sale, or exchange, in fee simple or for a term of years, any quantity not exceeding one acre of such land, as a site for a school for the education of poor persons, or for the residence of the schoolmaster or schoolmistress, or otherwise for the purposes of the education of such poor persons in religious and useful knowledge; provided that no such grant made by any person seised only for life of and in any such manor or lands shall be valid, unless the person next entitled to the same in remainder, in fee simple or fee tail, (if legally competent,) shall be a party to and join in such grant: provided also, that where any portion of waste or commonable land shall be gratuitously conveyed by any lord or lady of a manor for any such purposes as aforesaid, the rights and interests of all persons in the said land shall be barred and divested by such conveyance: provided also, that upon the said land so granted as aforesaid, or any part thereof, ceasing to be used for the purposes in this Act mentioned, the same shall thereupon immediately revert to and become a portion of the said estate held in fee simple or otherwise, or of any manor or land as aforesaid, as fully to all intents and purposes as if this Act had not been passed, anything herein contained to the contrary notwithstanding.

Chancellor and Council of the Duchy of Lancaster empowered to grant lands to the trustees of any existing or intended school.

III. And whereas it may be expedient and proper that the chancellor and council of Her Majesty's duchy of Lancaster, on Her Majesty's behalf, should be authorized to grant, convey, or enfranchise, to or in favour of the trustee or trustees of any existing or intended school, lands and hereditaments belonging to Her Majesty in right of her said duchy, for the purposes of this Act: be it therefore enacted, that it shall and may be lawful for the chancellor and council of Her Majesty's duchy of Lancaster for the time being, by any deed or writing under the hand and seal of the chancellor of the said duchy for the time being, attested by the clerk of the council of the said duchy for the time being, for and in the name of Her Majesty, her heirs and successors, to grant, convey, or enfranchise, to or in favour of such trustee or trustees, any lands and hereditaments to be used by them for the purposes of this Act, upon such terms and conditions as to the said chancellor and council shall seem meet; and where any sum or sums of money shall be paid as or for the purchase or consideration for such lands or hereditaments so to be granted, conveyed, or enfranchised as aforesaid, the same shall be paid by such trustee or trustees into the hands of the receiver-general for the time being of the said duchy, or his deputy, and shall be by him paid, applied, and disposed of according to the provisions and regulations contained in an Act passed in the forty-eighth year of the reign of His late Majesty King George the Third, intituled "An Act to improve the Land Revenue of the Crown in England, and also of His Majesty's Duchy of Lancaster," or any other Act or Acts now in force for that purpose: provided always, that upon the said land so granted as aforesaid, or any part thereof, ceasing to be used for the purposes in this Act mentioned, the same shall thereupon immediately revert to and become again a portion of the possessions of the said duchy, as fully to all intents and purposes as if this Act or any such grant as aforesaid had not been passed or made, anything herein contained to the contrary notwithstanding.

48 Geo. 3, c. 73.

If lands cease to be used for the purposes of the Act they shall revert.

IV. And be it enacted, that for the purposes of this Act only, and for such time only as the same shall be used for the purposes of this Act, it shall be lawful for any two of the principal officers of the duchy of Cornwall, under the authority of a warrant issued for that purpose under the hands of any three or more of the special commissioners for the time being for managing the affairs of the duchy of Cornwall, or under the hands of any three or more of the persons who may hereafter for the time being have the immediate management of the said duchy, if the said duchy shall be then vested in the Crown, or if the said duchy shall then be vested in a Duke of Cornwall then under the hand of the chancellor for the time being of the said duchy, or under the hands of any three or more of the persons for the time being having the immediate management of the said duchy, by deed under their hands, to grant and convey to the trustees or trustee for the time being of any existing school, or of any school intended to be established by virtue of this Act, any lands, tenements, or hereditaments forming part of the possessions of the said duchy of Cornwall, not exceeding in the whole one acre in any one parish, upon such terms and conditions as to the said special commissioners or chancellor, or such other persons as aforesaid, shall seem meet: provided always, that upon the said land so granted as aforesaid, or any part thereof, ceasing to be used for the purposes in this Act mentioned, the same shall thereupon immediately revert to and become again a portion of the possessions of the said duchy, as fully to all intents and purposes as if this Act or any such grant as aforesaid hath not been passed or made, anything herein contained to the contrary notwithstanding.

Officers of the Duchy of Cornwall empowered, upon sufficient authority, to grant lands to the trustees of any existing or intended school.

If lands cease to be used for the purposes of the Act they shall revert.

V. And be it enacted, that where any person shall be equitably entitled to any manor or land, but the legal estate therein shall be in some trustee or trustees, it shall be sufficient for such person to convey the same for the

Persons under disability empowered to convey lands for the purposes of this Act.

purposes of this Act without the trustee or trustees being party to the conveyance thereof; and where any married woman shall be seised or possessed of or entitled to any estate or interest, manorial or otherwise, in land proposed to be conveyed for the purposes of this Act, she and her husband may convey the same for such purposes by deed, without any acknowledgment thereof; and where it is deemed expedient to purchase any land for the purposes aforesaid belonging to or vested in any infant or lunatic, such land may be conveyed by the guardian or committee of such infant, or the committee of such lunatic respectively, who may receive the purchase money for the same, and give valid and sufficient discharges to the party paying such purchase money, who shall not be required to see to the application thereof.

Corporations, justices, trustees, &c. empowered to convey lands for the purposes of this Act.

VI. And be it enacted, that it shall be lawful for any corporation, ecclesiastical or lay, whether sole or aggregate, and for any officers, justices of the peace, trustees or commissioners, holding land for public, ecclesiastical, parochial, charitable, or other purposes or objects, subject to the provisions next herein-after mentioned, to grant, convey, or enfranchise, for the purposes of this Act, such quantity of land as aforesaid in any manner vested in such corporation, officers, justices, trustees, or commissioners: provided always, that no ecclesiastical corporation sole, being below the dignity of a bishop, shall be authorized to make such grant without the consent in writing of the bishop of the diocese to whose jurisdiction the said ecclesiastical corporation is subject: provided also, that no parochial property shall be granted for such purposes without the consent of a majority of the ratepayers and owners of property in the parish to which the same belongs, assembled at a meeting to be convened according to the mode pointed out in the Act passed in the sixth year of the reign of His late Majesty, intituled "An Act to facilitate the Conveyance of Workhouses and other property of Parishes and of Incorporations or Unions of

5 & 6 Will. 4, c. 69.

Parishes in England and Wales," and without the consent of the poor law commissioners, to be testified by their seal being affixed to the deed of conveyance, and of the guardians of the poor of the union within which the said parish may be comprised, or of the guardians of the poor of the said parish where the administration of the relief of the poor therein shall be subject to a board of guardians, testified by such guardians being the parties to convey the same; provided also, that where any officers, trustees, or commissioners, other than parochial trustees, shall make any such grant, it shall be sufficient if a majority or quorum authorized to act of such officers, trustees, or commissioners, assembled at a meeting duly convened, shall assent to such grant, and shall execute the deed of conveyance, although they shall not constitute a majority of the actual body of such officers, trustees, or commissioners: provided also, that the justices of the peace may give their consent to the making any grant of land or premises belonging to any county, riding, or division by vote at their general quarter sessions, and may direct the same to be made in the manner directed to be pursued on the sale of the sites of gaols by an Act passed in the seventh year of the reign of His late Majesty King George the Fourth, intituled "An Act to authorize the Disposal of unnecessary Prisons in England. 7 Geo. 4, c. 18.

VII. And be it enacted, that all grants of land or buildings, or any interest therein, for the purposes of the education of poor persons, whether taking effect under the authority of this Act or any other authority of law, may be made to any corporation sole or aggregate, or to several corporations sole, or to any trustees whatsoever, to be held by such corporation or corporations or trustees for the purposes aforesaid: provided nevertheless, that any such grant may be made to the minister of any parish being a corporation, and the churchwardens or chapelwardens and overseers (*a*) of the poor, or to the

Grants of land may be made to corporations or trustees, to be held by them for school purposes.

(*a*) Overseers may be omitted, see 7 & 8 Vict. c. 37, sec. 4, p. 236.

minister and kirk session of the said parish, and their successors; and in such case the land or buildings so granted shall be vested for ever thereafter in the minister, churchwardens, or chapelwardens, and overseers of the poor, for the time being, or the minister and kirk session of such parish, but the management, direction, and inspection of the school shall be and remain according to the provisions contained in the deed of conveyance thereof: provided also, that where any ecclesiastical corporation sole below the dignity of a bishop shall grant any land to trustees, other than the minister, churchwardens or chapelwardens, and overseers, for the purposes aforesaid, such trustees shall be nominated in writing by the bishop of the diocese to whose jurisdiction such corporation shall be subject; provided that where any school shall be intended for any ecclesiastical district, not being a parish as herein-after defined, it shall be sufficient if the grant be made to the minister and church or chapel warden or wardens of the church or chapel of such district, to hold to them and their successors in office; and such grant shall enure to vest the land, subject to the conditions contained in the deed of conveyance, in such minister and the church or chapel warden or wardens for the time being.

Estates now vested in trustees for the purposes of education may be conveyed to the minister and churchwardens (*b*).

VIII. And whereas schools for the education of the poor in the principles of the Established Church, or in religious and useful knowledge, and residences for the masters or mistresses of such schools, have been heretofore erected, and are vested in trustees not having a corporate character: be it therefore enacted, that it shall be lawful for the trustees for the time being of such last-mentioned schools and residences, not being subject to the provisions of the Act passed in the last session of parliament, intituled "An Act for improving the Conditions and extending the Benefits of Grammar Schools," to convey or assign the same, and all their estate and

(*b*) And overseers.

interest therein, to such ministers and churchwardens and overseers of the poor of the parish within which the same are respectively situate, and their successors as aforesaid, or, being situate within an ecclesiastical district not being a parish as herein-after defined, then to the minister and church or chapel wardens of the church or chapel of such district, and their successors, in whom the same shall thereafter remain vested accordingly, but subject to and under the existing trusts and provisions respectively affecting the same.

Any number of sites may be granted for separate schools. (c)

IX. And be it enacted, that any person or persons or corporation may grant any number of sites for distinct and separate schools, and residences for the master or mistress thereof, although the aggregate quantity of land thereby granted by such person or persons or corporation shall exceed the extent of one acre; provided that the site of each school and residence do not exceed that extent; provided also, that not more than one such site shall be in the same parish.

Form of grants, &c.

X. And be it enacted, that all grants, conveyances, and assurances of any site for a school, or the residence of a schoolmaster or schoolmistress, under the provisions of this Act, in respect of any land, messuages, or buildings, may be made according to the form following, or as near thereto as the circumstances of the case will admit; (that is to say,)

"I [*or* we, *or the corporate title of a corporation*], under the authority of an Act passed in the —— year of the reign of Her Majesty Queen Victoria, intituled 'An Act for affording further Facilities for the Conveyance and Endowment of Sites for Schools,' do hereby freely and voluntarily, and without any valuable consideration, [*or* do, in consideration of the sum of —— to me *or* us *or* the

(c) Extended by 12 & 13 Vict. c. 49, sec. 3, *post*, p. 238.

said —— paid,] grant, [alienate,] and convey to —— all [*description of the premises*], and all [my *or* our *or* the right, title, and interest of the ——] to and in the same and every part thereof, to hold unto and to the use of the said —— and his *or* their [heirs *or* executors *or* administrators *or* successors], for the purposes of the said Act, and to be applied as a site for a school for poor persons of and in the parish of —— and for the residence of the schoolmaster [*or* schoolmistress] of the said school [*or for other purposes of the said school*], and for no other purpose whatever; such school to be under the management and control of [*set forth the mode in which and the persons by whom the school is to be managed, directed, and inspected*]. [*In case the school be conveyed to trustees, a clause providing for the renewal of the trustees, and in cases where the land is purchased, exchanged, or demised, usual covenants or obligations for title, may be added.*] In witness whereof the conveying and other parties have hereunto set their hands and seals, this —— day of ——.

"Signed, sealed, and delivered by the said —— in the presence of ——, of ——."

And no bargain and sale or livery of seisin shall be requisite in any conveyance intended to take effect under the provisions of this Act, nor more than one witness to the execution by each party; and instead of such attestation such conveyance of any lands or heritages in Scotland shall be executed with a testing clause, according to the law and practice of Scotland; and, being recorded within sixty days of the date thereof in the general register of seisins or particular register for the county or stewartry in which the lands or heritages lie, shall, without actual seisin, be valid and effectual in law to all intents and purposes, and shall be a complete bar to all other rights, titles, trusts, interests, and incumbrances to, in, or upon the lands or heritages so conveyed.

Application of purchase

XI. And be it enacted, that where any land shall be

sold by any ecclesiastical corporation sole for the purposes of this Act, and the purchase money to be paid shall not exceed the sum of twenty pounds, the same may be retained by the party conveying, for his own benefit; but when it shall exceed the sum of twenty pounds it shall be applied for the benefit of the said corporation, in such manner as the bishop in whose diocese such land shall be situated shall, by writing under his hand, to be registered in the registry of his diocese, direct and appoint; but no person purchasing such land for the purpose aforesaid shall be required to see to the due application of any such purchase money.

Money for land sold by any ecclesiastical corporation sole.

XII. And be it enacted, that the price of any lands or heritages to be sold for the purposes of this Act by any heir of entail or other incapacitated person or persons in Scotland shall be applied and invested in such and the like manner as is directed in relation to any money awarded to be paid for lands or heritages belonging to heirs of entail or incapacitated persons under an Act passed in the first and second years of the reign of His late Majesty King William the Fourth, intituled "An Act for amending and making more effectual the Laws concerning Turnpike Roads in Scotland."

Application of purchase money for lands sold in Scotland.

1 & 2 Will. 4, c. 43.

XIII. And be it enacted, that when any ecclesiastical corporation sole below the dignity of a bishop shall grant any land belonging to him in right of his corporation for the purposes of this Act, he shall procure a certificate, under the hands of three beneficed clergymen of the diocese within which the land to be conveyed shall be situate, as to the extent of the land so conveyed, to be endorsed on the said deed; which certificate shall be in the form following; (that is to say,)

Ecclesiastical corporations to procure a certificate as to the extent of the land conveyed.

"We, A. B., clerk, rector of the parish of ——, C. D., clerk, rector of the parish of ——, and E. F., clerk, vicar of the parish of ——, being three beneficed clergymen of

Form of certificate.

the diocese of ——, do hereby certify, that ——, clerk, rector of the parish of ——, within the said diocese of ——, being about to convey a portion of land situate in the said parish of ——, for the purposes of a school, under the powers of the Act passed in the —— year of the reign of Her Majesty Queen Victoria, intituled 'An Act for affording further Facilities for the Conveyance and Endowment of Sites for Schools,' we have at his request inspected and examined the portion of land, and have ascertained that the same is situate at [*here describe the situation*], and that the extent thereof does not exceed —— acre . As witness our hands, this —— day of —— at —— in the county of —— and diocese of ——.

"Witness ——, of ——."

And until such certificate shall have been signed no such conveyance shall have any force or validity.

Trustees empowered to sell or exchange lands or buildings.

XIV. And be it enacted, that when any land or building shall have been or shall be given or acquired under the provisions of the said first-recited Act or this Act, or shall be held in trust for the purposes aforesaid, and it shall be deemed advisable to sell or exchange the same for any other more convenient or eligible site, it shall be lawful for the trustees in whom the legal estate in the said land or building shall be vested, by the direction or with the consent of the managers and directors of the said school, if any such there be, to sell or exchange the said land or building, or part thereof, for other land or building suitable to the purposes of their trust, and to receive on any exchange any sum of money by way of effecting an equality of exchange, and to apply the money arising from such sale or given on such exchange in the purchase of another site, or in the improvement of other premises used or to be used for the purposes of such trust; provided that where the land shall have been given by any ecclesiastical corporation sole the consent of the bishop of the diocese shall be required to be given to such sale or exchange

before the same shall take place: provided also, that where a portion of any parliamentary grant shall have been or shall be applied towards the erection of any school, no sale or exchange thereof shall take place without the consent of the secretary of state for the home department for the time being.

All conveyances of land under 6 & 7 Will. 4, c. 70, to be deemed effectual for vesting the fee simple.

XV. And whereas in many cases conveyances of land have been made, purporting to be made in pursuance of the powers of the said first-recited Act, to the minister or incumbent and the churchwardens or chapelwardens of certain parishes or places, as and for sites of schools or houses of residence for the schoolmasters; and doubts have been entertained whether such conveyances are valid and effectual for the purposes of conveying the fee simple, in consequence of the said statute not containing any words of limitation to the successors of such persons: be it therefore enacted, that all conveyances whereby any land shall have been conveyed to the minister or incumbent and the churchwardens or chapelwardens of any parish or place for the time being, whether made to them as such minister or incumbent and churchwardens or chapelwardens, or to them and their successors, shall be deemed and taken to have been and shall be valid and effectual for the purpose of vesting the fee simple, or such other estate as hath been proposed to be conveyed, in the persons who from time to time shall be the minister or incumbent and the churchwardens or chapelwardens of such place, such minister being the rector, vicar, or perpetual curate, whether endowed or not, of the said parish or place.

Certain conveyances of lands, &c. for purposes of education not enrolled as required by the 9 Geo. 2, c. 36, rendered valid

XVI. And whereas certain lands or buildings have been conveyed for valuable consideration, upon trust for the purposes of the education of the poor, and through inadvertence or other causes the deeds or assurances conveying the same have not been enrolled in Chancery as required by the Act passed in the ninth year of the reign of His

if enrolled within twelve months from the passing of this Act. Proviso for deeds avoided in any suit.

late Majesty King George the Second, intituled "An Act to restrain the Disposition of Lands whereby the same become unalienable," and by the said herein-before first-recited Act: be it therefore enacted, that notwithstanding the said provisions all such conveyances shall be and remain valid for the space of twelve calendar months next ensuing the passing of this Act, and if enrolled in Chancery before the expiration of that time shall be and remain valid hereafter as if duly enrolled within the time required by the provisions of the said Acts: provided nevertheless, that no effect shall be given hereby to any deed or other assurance heretofore made, so far as the same has been already avoided by any suit at law or in equity, or by any other legal or equitable means whatsoever, or to affect or prejudice any suit at law or in equity actually commenced for avoiding any such deed or other assurance, or for defeating the charitable uses in trust or for the benefit of which such deed or other assurance may have been made.

No schoolmaster to acquire a life interest by virtue of his appointment.

XVII. And be it enacted, that no schoolmaster or schoolmistress to be appointed to any school erected upon land conveyed under the powers of this Act shall be deemed to have acquired an interest for life by virtue of such appointment, but shall, in default of any specific engagement, hold his office at the discretion of the trustees of the said school.

Justices of the peace or sheriffs to give possession of school-rooms, &c. in case of the refusal of the master.

XVIII. And for the more speedy and effectual recovery of the possession of any premises belonging to any school which the master or mistress who shall have been dismissed, or any person who shall have ceased to be master or mistress, shall hold over after his or her dismissal or ceasing to be master or mistress, be it enacted, that when any master or mistress, not being the master or mistress of any grammar school within the provision of the Act of the last session of parliament herein-after mentioned, holding any schoolroom, schoolhouse, or any

other house, land, or tenement, by virtue of his or her office, shall have been dismissed or removed, or shall have ceased to be master or mistress, and shall neglect or refuse to quit and deliver up possession of the premises within the space of three calendar months after such dismissal or ceasing to be master or mistress, not having any lawful authority for retaining such possession, it shall be lawful for the justices of the peace acting for the district or division in which such premises are situated, in petty sessions assembled, or any two of them, or for the sheriff of the county in Scotland, and they are hereby required, on the complaint of the trustees or managers of the said school, or some one of them, on proof of such master or mistress having been dismissed or removed, or having ceased to be such master or mistress, to issue a warrant under their hands and seals, or under the hand of such sheriff in Scotland, to some one or more of the constables and peace officers of the said district or division, or of the sheriff's officers in Scotland, commanding him or them, within a period to be therein named, not less than ten nor more than twenty-one clear days from the date of such warrant, to enter into the premises, and give possession of the same to the said trustees or managers or their agents, such entry and possession being given in England in such manner as justices of the peace are empowered to give possession of any premises to any landlord or his agent under an Act passed in the second year of the reign of Her present Majesty, intituled "An Act to facilitate the Recovery of Possession of Tenements after due Determination of the Tenancy." 1 & 2 Vict. c. 74. (*d*)

XIX And whereas by an Act passed in the last session of parliament, intituled "An Act to further amend the Church Building Acts," provision was made to enable Her Majesty's commissioners for building new Powers granted to the commissioners under 3 & 4 Vict. c. 60, for applying land to

(*d*) See Act, *post*, p. 261.

Ecclesiastical purposes extended to land granted by way of gift.

churches to apply land in any parish granted to them for any of the purposes of the church building Acts to any other ecclesiastical purposes, or for the purpose of any parochial or charitable school, or any other charitable or public purpose relating to any such parish or place: and whereas through an accidental omission such provision does not extend to cases of land granted by way of gift: be it therefore enacted, that such power so given to the said commissioners, so far as it is applicable to the purposes of any school, shall extend to every case of land granted, given, or conveyed to them under the authority of the several Acts in the said Act recited.

Definition of the term "parish."

XX. And be it enacted, that the term "parish" in this Act shall be taken to signify every place separately maintaining its own poor, and having its own overseers of the poor and church or chapel wardens.

Act not to extend to Ireland.

XXI. And be it enacted, that this Act shall not extend to Ireland.

Act not to affect 1 & 2 Vict. c. 87, or 3 & 4 Vict. c. 48.

XXII. And be it enacted, that nothing herein contained shall repeal or affect an Act passed in the second year of the reign of Her present Majesty, intituled "An Act to facilitate the Foundation and Endowment of additional Schools in Scotland," or another Act passed in the last session of parliament, intituled "An Act to enable Proprietors of Entailed Estates in Scotland to feu or lease on long Leases Portions of the same for the building of Churches and Schools, and for Dwelling Houses and Gardens for the Ministers and Masters thereof."

Act may be amended, &c. this session.

XXIII. And be it enacted, that this Act may be altered or amended by any Act to be passed in this session of parliament.

7 & 8 VICT. CAP. 37.

An Act to secure the Terms on which Grants are made by Her Majesty out of the Parliamentary Grant for the Education of the Poor; and to explain the Act of the Fifth Year of the Reign of Her present Majesty, for the Conveyance of Sites for Schools.

[19*th July*, 1844.]

WHEREAS during several years last past divers sums of money have been granted by parliament to Her Majesty, to be applied for the purpose of promoting the education of the poor in Great Britain, and similar grants may hereafter be made: and whereas Her Majesty hath appointed a committee of her council to receive applications for assistance from such grants, and to report thereon, and to advise her as to the terms and conditions upon which such assistance shall be granted, and many such reports have been made, and approved of by Her Majesty, and the terms and conditions having been assented to by the applicants, grants have been made out of the said fund: and whereas in some cases, by reason of the deeds of endowment of schools in respect of which such applications have been received having been executed before the grant has been made, such terms and conditions have not and cannot be made permanently binding on the estate; but the parties promoting the said schools have entered into personal obligations or assurances for the due performance of such terms and conditions, though deriving no beneficial interest from the charitable institution which they have established; and it is desirable to provide permanent security to her Majesty and her successors for the due fulfilment of the terms and conditions, and to relieve the parties from the personal liabilities so entered into for the purpose aforesaid: be it therefore enacted by the Queen's most excellent Majesty,

by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that where any grant hath been made or shall hereafter be made out of any sums of money heretofore granted or hereafter to be granted by parliament for the purposes of education in Great Britain, under the advice of any committee of the council on education for the time being, upon terms and conditions to provide for the inspection of the school by an inspector appointed or to be appointed by Her Majesty and her successors, which shall not be inserted in the conveyance of the site of the school, or in the deed declaring the trusts thereof, and such grant shall be made in aid of the purchase of the site, or of the erection, enlargement, or repair of the school, or of the residence of the master or mistress thereof, or of the furnishing of the school, such terms and conditions shall be binding and obligatory upon the trustees or managers of the said school or other the premises for the time being, in like manner and to the like effect as though they had been inserted in the conveyance of the site of the said school, or in the declaration of the trusts thereof; and henceforth all personal obligations entered into for the purpose of securing the fulfilment of such terms and conditions shall, so far as they relate thereto, but no further, be null and void: provided nevertheless, that such terms and conditions shall have been or shall be set forth in some document in writing, signed by the trustees of the said school or the major part of them, or by the party or parties conveying the site, in the case where there shall have been a voluntary gift thereof.

The terms and conditions upon which parliamentary aid has been given towards the building of schools secured upon the site.

II. And whereas there are many endowments for the purpose of education of the poor in Great Britain of ancient date, the schools whereon have become dilapidated, and, the funds of such endowment being insufficient for the restoration thereof, application is made by the trustees, or by the persons acting in the discharge of the trusts

The terms upon which aid shall be granted to trustees of ancient endowed schools.

thereof, for aid out of the said parliamentary grant, but the same hath been declined, because such applicants could not impose upon their lawful successors in the said trust the conditions which the said committee would have advised Her Majesty to require to secure the due inspection of such schools, and it is expedient to enable them to do so: be it therefore enacted, that where the major part of the trustees of any endowed school for the education of the poor duly appointed under the terms of the deed of endowment, or, when such deed cannot be found or cannot be acted upon, of the persons who shall be in the possession of the endowment, and shall be acting in the execution of the trusts or the reputed trusts thereof, shall, and in cases where there shall be a visitor of such school with the consent of such visitor in writing, apply for aid out of such parliamentary grant to enable them to rebuild, repair, or enlarge the school belonging to such endowment, or the residence of the master or mistress thereof, or to furnish such school, and shall in writing assent to the said school being open to inspection on behalf of Her Majesty and her successors, if the said committee shall deem fit to advise that any such grant shall be made, it shall immediately after the making of such grant, and thenceforth from time to time, be lawful for any inspector of schools appointed by Her Majesty and her successors, in conformity with the terms contained in the writing testifying such consent as aforesaid, to enter the said school at all reasonable hours in the day for the purpose of inspecting and examining the state and condition of the school and the scholars thereat, and of making such report thereon, as he shall deem fit.

Death of donor within twelve calendar months not to avoid grant. 9 Geo. 2, c. 36.

III. And whereas by an Act passed in the fifth year of the reign of Her present Majesty, intituled "An Act to afford further Facilities for the Conveyance and Endowment of Sites for Schools," it is enacted, that any person, being seised in fee simple, fee tail, or for life of and in any manor, or lands of freehold, copyhold, or customary

tenure, may grant, convey, or enfranchise, and subject to the provisions therein mentioned, any quantity not exceeding one acre of land as a site for a school or otherwise, as therein likewise specified; and it is desirable to prevent any such grant, being of so limited an interest, from being defeated by the death of the grantor: be it enacted, that where any deed shall have been or shall be executed under the powers and for the purposes contained in the said Act, without any valuable consideration, the same shall be and continue valid, if otherwise lawful, although the donor or grantor shall die within twelve calendar months from the execution thereof.

Site may be granted to the minister and churchwardens.

IV. And whereas it was provided by the said Act that grants of land or buildings, or any interest therein, for the purposes of the education of poor persons, might be made to the minister of any parish, being a corporation, and the churchwardens or chapelwardens and overseers of the poor and their successors, and it is sometimes found inexpedient or impracticable to introduce the overseers as parties to the legal estate: be it therefore enacted, that such grants may be made to the minister and churchwardens of any parish, such minister being the rector, vicar, or perpetual curate thereof, whether endowed or not, to hold to them and their successors, subject to the provisions contained in the deed of conveyance thereof for the management, direction, and inspection of the school and premises.

Rector, vicar, or perpetual curate may grant to the minister and churchwardens, or to the minister, churchwardens, and overseers of his parish.

V. And be it enacted, that if the rector, vicar, or perpetual curate of any parish shall be desirous of making a grant of any land for the purposes and under the powers of the said Act, being part of the glebe or other possessions of his benefice, and shall, with the consent of the patron of the said benefice, and of the bishop of the diocese within which the same shall be situated, grant the same to the minister and church or chapel wardens, or to the minister, church or chapel wardens, and overseers of the

poor of the said parish, such grant shall be valid, and shall thenceforth enure for the purposes of the trust set forth therein, if otherwise lawful, notwithstanding such minister is the party making the grant.

VI. And be it enacted, that this Act may be altered by any other Act in this session of parliament. Act may be altered this session.

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12 & 13 VICT. CAP. 49.

An Act to extend and explain the Provisions of the Acts for the granting of Sites for Schools.

[28*th July*, 1849.]

WHEREAS by an Act passed in the fifth year of the reign of Her Majesty provisions are made for facilitating the erection of schools and buildings for the education of poor persons, which said Act hath been since explained and extended by an Act of the eighth year of the reign of Her Majesty; and it is expedient that further facilities should be afforded for the conveyance of lands for sites for schools in cases where such lands are comprised with other lands in leases, and that some amendments should also be made in the said Acts: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that if part only of any lands comprised in a lease for a term of years unexpired shall be conveyed or agreed to be conveyed for the purposes of the said firstly herein-before mentioned Act, the rent payable in respect of the lands comprised in such lease, and any fine certain or fixed sum of money to be paid upon any renewals thereof, or either of such payments, may be apportioned between the part of the said lands so conveyed or agreed to be conveyed and the residue thereof; and such apportionment may be settled by agreement

Where part only of lands under lease conveyed, the rent, and fine upon renewal of lease, may be apportioned.

between the parties following, that is to say, the lessor or other the owner subject to such lease of the lands comprised therein, the lessee or other the party entitled thereto by virtue of such lease or any assignment thereof for the residue of the term thereby created, and the party to whom such conveyance as aforesaid for the purposes of the said firstly herein-before mentioned Act is made or agreed to be made; and when such apportionment shall so be made it shall be binding on all under-lessees and other persons and corporations whatsoever, whether parties to the said agreement or not.

Liabilities of tenants, and remedies of landlords, as to the lands not conveyed.

II. And be it enacted, that in case of any such apportionment as aforesaid, and after the lands so conveyed or agreed to be conveyed as aforesaid shall have been conveyed, the lessee, and all parties entitled under him to the lands comprised in the lease not included in such conveyance, shall, as to all future accruing rent, and of all future fines certain or fixed sums of money, to be paid upon renewals, be liable only to so much of the rent and of such fines or sums of money as shall be apportioned in respect of such last-mentioned lands; and the party entitled to the rent reserved by the lease shall have all the same rights and remedies for the recovery of such portion of the rent as last aforesaid as previously to such apportionment he had for the recovery of the whole rent reserved by such lease; and all the covenants, conditions, and agreements of such lease, except as to the amount of rent to be paid, and of fines or sums of money to be paid upon renewals, in case of any apportionment of the same respectively, shall remain in force with regard to that part of the land comprised in the lease which shall not be so conveyed as aforesaid, in the same manner as they would have done in case such part only of the land had been included in the lease.

The same person may grant several sites for

III. And whereas by the said first-recited Act power is given to any person or corporation to grant any number

of sites for distinct and separate schools; but after providing that the site of each school and residence do not exceed one acre, it is also provided that not more than one such site shall be in the same parish; and doubts have been entertained as to the meaning of this last-recited proviso: be it therefore declared and enacted, that nothing in the said Act contained shall prevent any person or corporation from granting any number of sites for separate and distinct schools in the same parish, provided the aggregate quantity of land granted by such person in the same parish shall not exceed the extent of one acre.

Schools in the same parish if the whole extent do not exceed certain limits. 4 & 5 Vict. c. 38, sec. 9.

IV. And whereas it would be expedient that the absolute owners of land and tenants in tail in possession should have the power of granting land to a limited extent for the purpose of erecting sites for schools to be applied and used in and for the education and instruction of persons intended to be masters or mistresses of elementary schools for poor persons, without any risk of such grant being defeated by the death of the grantor: be it therefore enacted, that it shall be lawful for all persons, being such absolute owners or tenants in tail in possession as aforesaid, to grant, convey, or enfranchise, by way of gift, sale, or exchange, any quantity of land, not exceeding in the whole five acres, to any corporation sole or aggregate, or to several corporations sole, or to any trustees whatsoever, to be held, applied, and used by such corporation or corporations or trustees in and for the erection of school buildings and premises thereon for the purpose of educating and instructing, and of boarding during the time of such education and instruction, persons intended to be masters or mistresses of elementary schools for poor persons, and for the residence of the principal or master or mistress and other officers of such institution; and such gift, sale, or exchange shall be and continue valid, if otherwise lawful, although the donor or grantor shall die within twelve calendar months from the execution thereof:

Grants of land for sites of schools by owners or tenants in tail to be valid, although grantor die within twelve months.

provided always, that it shall be lawful for the trustees of such school buildings and premises to allow the same to be applied and used, concurrently with the education and instruction of such masters or mistresses, for the purpose of boarding other persons, and of educating and instructing the said persons in religious and useful knowledge.

The owners of land empowered to vest any quantity of land for purposes of these Acts in corporations.

V. And whereas the absolute owners of land may grant, subject to the regulations and provisions prescribed by the statutes in such behalf, any quantity of such land to trustees, to be held upon charitable purposes; and it would be beneficial that they should be authorized to exercise such power in respect of lands granted for the sites or for the endowment of the last-mentioned schools, or of schools for poor persons, by vesting the same so as to secure it permanently for the purpose of the trust, without the necessity of subsequent renewals of the deeds of trust: be it therefore enacted, that where any such person shall be lawfully entitled to convey an estate in land to trustees, to hold the same upon any charitable use, and shall be desirous of conveying the same for the purposes of the Acts herein-before referred to, or this Act, or for the endowment of such schools, such person may grant and convey the same to any corporation or corporations as aforesaid, to be held in trust for such purposes, whatever may be the quantity of land or extent of the estate so to be granted and conveyed.

Mode of conveying the lord's interest and that of the copyholder in copyhold land.

VI. And be it enacted, that where land of copyhold or customary tenure shall have been or shall be granted for the purposes of the said Acts, the conveyance of the same by any deed wherein the copyholder shall grant and convey his interest, and the lord shall also grant his interest, shall be deemed to be valid and sufficient to vest the freehold interest in the grantee or grantees thereof without any surrender or admittance or enrolment in the lord's court.

VII. And be it enacted, that, except in cases where there shall be something in the subject or context repugnant to such construction, words occurring in this Act and the above-recited Acts importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender only shall include females; and the word "land" shall include messuages, houses, lands, tenements, hereditaments, and heritages of every tenure; and the word "lease" shall include an under-lease, agreement for a lease, and missive of lease; and the word "owner" shall include any person or corporation enabled under the provisions of the said firstly herein-before mentioned Act to convey lands for the purposes thereof. Interpretation clause.

VIII. And be it enacted, that this Act may be amended or repealed by any Act to be passed in this present session of parliament. Act may be amended, &c.

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13 & 14 VICT. CAP. 28.

An Act to render more simple and effectual the Titles by which Congregations or Societies for Purposes of Religious Worship or Education in England and Ireland hold Property for such Purposes.

[15*th July*, 1850.]

WHEREAS it is expedient to render more simple and effectual the titles by which congregations or societies associated together for the purposes of maintaining religious worship or promoting education in England, Wales, or Ireland may hold the property required for such purposes: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority

Property conveyed for religious or educational purposes to vest in successors without conveyance.

of the same, that wherever freehold, leasehold, copyhold, or customary property in England or Wales has been or hereafter shall be acquired by any congregation or society or body of persons associated for religious purposes or for the promotion of education, as a chapel, meeting-house, or other place of religious worship, or as a dwelling-house for the minister of such congregation, with offices, garden, and glebe, or land in the nature of glebe, for his use, or as a schoolhouse, with schoolmaster's house, garden, and playground, or as a college, academy, or seminary, with or without grounds for air, exercise, or recreation, or as a hall or rooms for the meeting or transaction of the business of such congregation or society or body of persons, and wherever the conveyance, assignment, or other assurance of such property has been or may be taken to or in favour of a trustee or trustees to be from time to time appointed, or of any party or parties named in such conveyance, assignment, or other assurance, or subject to any trust for the congregation or society or body of persons, or of the individuals composing the same, such conveyance, assignment, or other assurance shall not only vest the freehold, leasehold, copyhold, or customary property thereby conveyed or otherwise assured in the party or parties named therein, but shall also effectually vest such freehold, leasehold, copyhold, or customary property in their successors in office for the time being, and the old continuing trustees, if any, jointly, or if there be no old continuing trustees, then in such successors for the time being wholly, chosen and appointed in the manner provided or referred to in or by such conveyance, assignment, or other assurance, or in any separate deed or instrument declaring the trust thereof, or if no mode of appointment be therein set forth, prescribed, or referred to, or if the power of appointment be lapsed, then in such manner as shall be agreed upon by such congregation or society or body of persons, upon such and the like trusts, and with, under, and subject to the same powers and provisions, as are contained or referred to in such conveyance, assign-

ment, or other assurance, or in any such separate deed or instrument, or upon which such property is held, and that without any transfer, assignment, conveyance, or other assurance whatsoever, anything in such conveyance, assignment, or other assurance, or in any such separate deed or instrument, contained to the contrary notwithstanding: provided always, that in case of any appointment of a new trustee or trustees of or the conveyance of the legal estate in any such property being made as heretofore was by law required, the same shall be as valid and effectual to all intents and purposes as if this Act had not been passed.

Providing for payment in lieu of fines on death or alienation of property of copyhold or customary tenure.

II. And be it enacted, that where such property shall be of copyhold or customary tenure, and liable to the payment of any fine, with or without a heriot, on the death or alienation of the tenant or tenants thereof, it shall be lawful for the lord or lady of the manor of which such property shall be holden, on the next appointment of a new trustee or trustees thereof, and at the expiration of every period of forty years thereafter, so long as such property shall belong to or be held in trust for such congregation or society or body of persons or other party or parties to whom such property may have been or shall be conveyed for their benefit, to receive and take a sum corresponding to the fine and heriot, if any, which would have been payable by law upon the death or alienation of the tenant or tenants thereof; and such payments shall be in full of all fines payable to the lord or lady of the manor of which such property is holden, while the same shall remain the property or be held in trust for such congregation or society or body of persons; and the lord or lady of such manor shall have all such powers for the recovery of such sums as such lord or lady could have had in the event of the tenant or tenants of such property having died or having alienated the same.

Appointment of new trustees

III. And be it enacted, that for the purpose of preserving evidence of every such choice and appointment

to be made appear by deed.

of a new trustee or new trustees, and of the person and persons in whom such charitable estates and property shall so from time to time become legally vested, every such choice and appointment of a new trustee or new trustees shall be made to appear by some deed under the hand and seal of the chairman for the time being of the meeting at which such choice and appointment shall be made, and shall be executed in the presence of such meeting, and attested by two or more credible witnesses, which deed may be in the form or to the like effect of the schedule to this Act annexed, or as near thereto as circumstances will allow, and may be given and shall be received as evidence in all courts and proceedings in the same manner and on the like proof as deeds under seal, and shall be evidence of the truth of the several matters and things therein contained.

Act extended to Ireland.

IV. And be it enacted, that the provisions of this Act shall extend to that part of the United Kingdom called Ireland.

Act may be amended, &c.

V. And be it enacted, that this Act may be amended or repealed by any Act to be passed in the present session of parliament, except so far as the contrary shall be made to appear.

SCHEDULE TO WHICH THIS ACT REFERS.

MEMORANDUM of the choice and appointment of new trustees of the [*describe the chapel, school, or other buildings and property*] situate —— in the parish [*or township*] of —— in the county [*riding, division, city, or place*] of —— at a meeting duly convened and held for that purpose [*in the vestry of the said chapel*] on the [25*th*] day of [*April* 1850], *A.B.* —— of —— chairman.

Names and descriptions of all the trustees on the

constitution or last appointment of —— trustees made the —— day of ——

Adam Bell of ——
Charles Dixon of ——
Edward Foster of ——
George Hurst of ——
John Jackson of ——
Kenneth Lucas of ——
Matthew Norman of ——
Octavius Parker of ——

Names and descriptions of all the trustees in whom the said [*chapel*] and premises now become legally vested.

First.—Old continuing trustees :—

John Jackson, now of ——
Matthew Norman, now of ——
Octavius Parker, now of ——

Second.—New trustees now chosen and appointed :—

Benjamin Adams of ——
Charles Bell of ——
Jonathan Edmonds of ——
Richard Baxter of ——
John Home of ——

Dated this —— day of ——

William Hicks, (L.S.)
Chairman of the said meeting.

Signed, sealed, and delivered by the said *William Hicks,* as chairman of the said meeting, at and in the presence of the said meeting, on the day and year aforesaid, in the presence of

C. D.
E. F.

[The blanks and parts in italics to be filled up, as the case may be.]

14 & 15 VICT. CAP. 24.

An Act to Amend the Acts for the granting of Sites for Schools.

[*24th July*, 1851.]

WHEREAS by the statute fourth and fifth Victoria, chapter thirty-eight, power is given to divers persons therein mentioned to grant, convey, and enfranchise a certain portion of land for the purpose of a site for a school for the education of poor persons, or for the residence of a schoolmaster or schoolmistress, or otherwise for the education of poor persons in religious and useful knowledge, and provisions are contained therein for facilitating the conveyance of such sites and perpetuating the trusts of the deeds: and whereas the persons therein mentioned having been authorized to grant any number of sites for distinct and separate schools, and residences for the master or mistress thereof, it is provided that the site of each school and residence should not exceed the extent of one acre, and it is also provided that not more than one such site should be in the same parish: and whereas by the twelfth and thirteenth Victoria, chapter forty-nine, it is declared and enacted, that nothing in the last-recited Act contained should prevent any person or corporation from granting any number of sites for separate and distinct schools in the same parish, provided the aggregate quantity of land granted by such person in the same parish should not exceed the extent of one acre: and whereas by reason of the great extent of some parishes, wherein the population is very large, this limitation is found to be productive of inconvenience, and to prevent the extension of the education of the poor; and it is desirable to make further provision in this behalf: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent

of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows :—

I. The word "parish" in the sections of the statutes herein referred to shall, in the case of any parish which has heretofore been or shall hereafter be divided by lawful authority into two or more ecclesiastical districts, whether confined to such parish, or comprising also any part of another parish, be construed with reference to such parish to signify each such ecclesiastical district.

The word parish in the 4 & 5 Vict. c. 38, sec. 9, and 12 & 13 Vict. c. 49, sec. 3, to signify an ecclesiastical district in any divided parish.

II. This Act shall be construed as and be deemed to be a part of the said-recited Acts, except so far as it amends the same.

Incorporation of this Act with recited Acts.

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15 & 16 VICT. CAP. 49.

An Act to extend the Provisions of the several Acts passed for the Conveyance of Sites for Schools.

[30*th June*, 1852.]

WHEREAS an Act was passed in the session of parliament held in the fourth and fifth years of the reign of Her present Majesty, intituled "An Act to afford further facilities for the conveyance and endowment of sites for schools :" and whereas an Act was passed in the session of parliament held in the seventh and eighth years of the reign of Her present Majesty, intituled "An Act to secure the terms on which grants are made by Her Majesty out of the parliamentary grant for the education of the poor, and to explain the Act of the fifth year of the reign of Her present Majesty, for the conveyance of sites for schools :" and whereas an Act was passed in the session of parliament held in the twelfth and thirteenth years of the reign of Her present Majesty, intituled "An Act to extend and explain the provisions of the Acts for the

4 & 5 Vict. c. 38.

7 & 8 Vict. c. 37.

12 & 13 Vict. c. 49.

granting of sites for schools:" and whereas an Act was passed in the session of parliament held in the thirteenth and fourteenth years of the reign of Her present Majesty, intituled "An Act to render more simple and effectual the title by which congregations or societies for purposes of religious worship or education in England and Ireland hold property for such purposes:" and whereas an Act was passed in the session of parliament held in the fourteenth and fifteenth years of the reign of Her present Majesty, intituled "An Act to amend the Acts for the granting of sites for schools:" and whereas it is expedient to encourage the building and promoting of schools or colleges for the sons of yeomen and others, and to extend the provisions of the said recited Acts to the cases hereinafter specified: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows: that from and after the passing of this Act all the provisions contained in the said recited Acts or any of them in relation to the conveyance and endowment of sites for such schools as are contemplated by the provisions of the said Acts respectively, shall apply to and be construed to be applicable to the cases of such schools as are herein-after specified; (that is to say), schools or colleges for the religious or educational training of the sons of yeomen or tradesmen or others, or for the theological training of candidates for holy orders, which are erected or maintained in part by charitable aid, and which in part are self-supporting, in the same or the like manner as if such schools or colleges as last aforesaid had been expressly specified in the said Act of the fourth and fifth years of Her present Majesty and the said subsequent Acts, and the same or the like powers had been thereby given for or in relation to the conveyance and endowments of sites for such schools or colleges, and for the residences of schoolmasters, or otherwise in connection therewith, as are by the said Acts given for

13 & 14 Vict. c. 28.

14 & 15 Vict. c. 24.

Provisions of recited Acts as to conveyances and endowments of sites for schools to apply to schools herein specified.

or in reference to the conveyance and endowment of sites for schools falling within the provisions of those Acts: provided always, that no ecclesiastical corporation, sole or aggregate, shall be authorized to grant any site under this Act, except for schools or colleges which shall be conducted upon the principles of and be in union with the church of England and Ireland as by law established; and that no ecclesiastical corporation, aggregate or sole, shall grant, by way of gift, and without a valuable consideration, for any of the purposes of this Act, any greater quantity of land in the whole than two acres; and that no other person or persons or corporation not coming within the class or description of persons empowered by the second section of the said Act of the fourth and fifth years of the reign of Her present Majesty to convey land for sites as therein mentioned, shall grant, by way of sale, for a valuable consideration, for any of the purposes of this Act, any greater quantity of land in the whole than two acres, or shall grant any land whatever for any of the purposes of this Act by way of gift and without a valuable consideration, anything in the said recited Acts or hereinbefore contained to the contrary notwithstanding.

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18 & 19 VICT. CAP. 131.

An Act to render more secure the conditions upon which money is advanced out of the Parliamentary Grant for the purposes of Education.

[14*th August*, 1855.]

WHEREAS it is expedient that greater security should be afforded for the due application of money advanced in certain cases to the trustees or managers of schools by the Lords Commissioners of the Treasury out of the parliamentary grant for the promotion of education in Great Britain: be it therefore enacted by the Queen's most

excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows: where any grant hath been made or shall hereafter be made out of any sums of money heretofore granted or hereafter to be granted by parliament for the purposes of education in Great Britain, under the advice of any committee of the council on education for the time being, to the trustees, managers, or other persons applying on behalf of any school, with the consent of the trustees or persons holding the legal estate thereof, for or towards the purchase of the site or the erection, enlargement, or repair of the school, or the residence of the master or mistress, or the furnishing such school or residence, no sale, exchange, or mortgage of the premises in respect of which such grant hath been or may hereafter be made in exercise of any power contained in the conveyance or other deed relating thereto, or under any other legal authority, shall be valid unless either the consent of the Secretary of State for the Home Department for the time being in writing under his hand be given to the same, or the amount of the grant which shall have been made as aforesaid shall be repaid to the Lords Commissioners of the Treasury for the time being; and whenever any grant as aforesaid shall be hereafter made, a memorandum, to be signed by one of the Lords Commissioners of the Treasury for the time being, shall be endorsed upon some one of the title deeds relating to the school, certifying to the fact of the grant having been made upon such application, and for some such purpose as aforesaid, and referring to this Act; and in any case in which any grant as aforesaid shall have been already made, so soon as such memorandum shall have been endorsed and signed on any such deed, all bonds, covenants, or other personal obligations heretofore given or entered into to prevent the exercise of any such power of sale, exchange, or mortgage without such consent as aforesaid, shall, so far as they relate to such exercise, but no further, be annulled.

Sale, &c. of premises in respect of which grant of money has been made not to be valid without consent of Secretary of State, &c.

II. Nothing herein contained shall affect any purchaser for a valuable consideration without notice, nor be deemed to apply to any school in respect of any such grant heretofore made without any such bond, covenant, or other personal obligations or conditions as to sale, exchange, or mortgage having been entered into by the trustees or persons holding the legal estate in such schools and the Committee of Council on Education.

Purchasers not to be affected without notice.

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17 & 18 VICT. CAP. 112.

An Act to afford greater facilities for the establishment of Institutions for the promotion of Literature and Science and the Fine Arts, and to provide for their better regulation.

[11*th August*, 1854.]

IV. PROVIDED, that upon any land so granted by way of gift as aforesaid, or any part thereof, ceasing to be used for the purposes of the institution, the same shall thereupon immediately revert to and become again a portion of the estate or manor or possessions of the duchy, as the case may be, to all intents and purposes as fully as if this Act or any such grant as aforesaid had not been passed or made, except that where the institution shall be removed to another site the land not originally part of the possessions of either of the duchies aforesaid may be exchanged or sold for the benefit of the said institution, and the money received for equality of exchange or on the sale may be applied towards the erection or establishment of the institution upon the new site.

If lands cease to be used for the purposes of the Act they shall revert.

VI. Any corporation, ecclesiastical or lay, whether sole or aggregate, and any officers, justices of the peace, trustees, or commissioners, holding land for public, ecclesiastical, parochial, charitable, or other purposes or objects, may, subject to the provisions herein-after mentioned, grant,

Corporation, justices, trustees, &c. to convey lands for the purposes of this Act.

convey, or enfranchise for the purpose of this Act such quantity of land (*a*) as aforesaid, in any manner vested in such corporation, officers, justices, trustees, or commissioners; provided, that no ecclesiastical corporation sole, being below the dignity of a bishop, shall be authorized to make such grant without the consent in writing of the bishop of the diocese to whose jurisdiction the said ecclesiastical corporation shall be subject; provided also, that no parochial property shall be granted for such purpose without the consent of a majority of the ratepayers and owners of property in the parish to which the same belongs, assembled at a meeting to be convened according to the mode pointed out in the Act passed in the sixth year of the reign of His late Majesty, intituled "An Act to facilitate the conveyance of workhouses and other property of parishes and of incorporations or unions of parishes in England and Wales," and without the consent of the Poor Law Board, to be testified by their seal being affixed to the deed of conveyance, and of the guardians of the poor of the union within which the said parish may be comprised, or of the guardians of the poor of the said parish where the administration of the relief of the poor therein shall be subject to a board of guardians, testified by the guardians of such union or parish being the parties to convey the same; and that no property held upon trust for charitable purposes shall be granted without the consent of the Charity Commissioners.

5 & 6 Will. 4, c. 69.

How such parties may convey.

VII. Where any officers, trustees, or commissioners, other than parochial trustees, shall make any such grant, it shall be sufficient if a majority or quorum authorized to act of such officers, trustees, or commissioners, assembled at a meeting duly convened, shall assent to such grant, and shall execute the deed of conveyance, although they shall not constitute a majority of the actual body of such officers, trustees, or commissioners; and the justices of

(*a*) Limited to one acre by sec. 1.

the peace may give their consent to the making any grant of land or premises belonging to any county, riding, or division by vote at their general quarter sessions, and may direct the same to be made in the manner directed to be pursued on the sale of the sites of gaols by an Act passed in the seventh year of the reign of His late Majesty George the Fourth, intituled "An Act to authorize the disposal of unnecessary prisons in England." 7 Geo. 4, c. 18.

X. Any person or corporation may grant any number of sites for distinct and separate institutions, although the aggregate quantity of land thereby granted by such person or corporation shall exceed the extent of one acre, provided that the site of each institution do not exceed that extent. Any number of sites may be granted for separate institutions.

XII. The provisions of the Act of the fourteenth Victoria, chapter twenty-eight, shall be applicable to the conveyances of lands in England, Wales, and Ireland made or to be made to trustees, not being corporations, for the purposes of such institutions. Incorporation of 13 & 14 Vict. c. 28 (*b*).

XIII. All grants, conveyances, and assurances of any site for an institution under the provisions of this Act may be made according to the form following, or as near thereto as the circumstances of the case will admit; (that is to say,) Form of grants, &c.

"I, *or* we, [*or the corporate title of a corporation,*] under the authority of an Act passed in the —— year of the reign of Her Majesty Queen Victoria, intituled —— do hereby freely and voluntarily, and without any valuable consideration [*or* do in consideration of the sum of —— to me, *or* us, *or* the said —— paid], grant and convey [*add, if necessary,* enfranchise] to —— all [*description of the premises*] and all [my, *or* our, *or* the right, title, and

(*b*) See Act, *ante*, p. 241.

interest of the —— to and in the same and every part thereof, to hold unto and to the use of the said corporation and their successors, *or* of the said —— and his *or* their [heirs *or* executors *or* administrators *or* successors], for the purposes of the said Act, and to be applied as a site for —— and for no other purpose whatever; such —— to be under the management and control of [*set forth the mode in which and the persons by whom the institution is to be managed and directed; in cases where the land is purchased, exchanged or demised, usual covenants or obligations for title may be added*]. In witness whereof the conveying and other parties have hereunto set their hands and seals, [*or* seals *only, as the case may be,*] this —— day of ——. Signed, sealed, and delivered by the said ——, in the presence of ——, of ——."

And no bargain and sale or livery of seisin shall be requisite in any conveyance intended to take effect under the provisions of this Act, nor more than one witness to the execution by the conveying party.

Death of donor within twelve months not to invalidate grant.

XIV. Any deed executed for the purposes of any institution to which this Act applies, without any valuable consideration, shall continue valid, if otherwise lawful, although the donor or grantor shall die within twelve calendar months from the execution thereof.

Certain clauses of the 8 & 9 Vict. c. 18, rendered applicable to this Act.

XVII. In cases not otherwise provided for in this Act, the clauses sixty-nine, seventy, seventy-one, seventy-two, seventy-three, seventy-four, and seventy-eight of the Lands Clauses Consolidation Act, one thousand eight hundred and forty-five, being the eight and ninth Victoria, chapter eighteen, shall apply in respect of the application of the purchase money of all sites purchased from incapacitated persons, corporations, and trustees, hereby empowered to sell, other than the chancellor and council of the duchy of Lancaster and the officers of the duchy of Cornwall.

17 & 18 VICT. CAP. 81.

An Act to make further Provision for the good Government and Extension of the University of Oxford, of the Colleges therein, and of the College of Saint Mary Winchester.

[*7th August*, 1854.]

Right of preference belonging to schools not to be aholished if governors of schools or charity commissioners dissent therefrom.

XXXI (*a*). If in the execution of the powers of this Act it shall be proposed by any college, or by the commissioners, to make any regulation or ordinance for the abolition of any right of preference, in elections to any emolument within any college now lawfully belonging to and enjoyed by any school or other place of education beyond the precincts of the University, individually named or designated in any statute, deed of composition, or other instrument of foundation or endowment, notice thereof shall be given in writing to the governing body of every such school or place of education, and also to the commissioners appointed under "The Charitable Trusts Act, 1853," at least two calendar months before any final resolution for that purpose shall be adopted by such college or by the commissioners; and in cases where it is proposed by such regulation or ordinance to abolish any right of preference in elections to any emolument other than a fellowship or studentship, no such regulation or ordinance shall be made if within two calendar months after receiving such notice two-thirds of the said governing body, or if there shall be several schools interested in such right of preference, then two-thirds of the aggregate body composed of the several governing bodies of such schools, or the said commissioners appointed under "The Charitable Trusts Act, 1853," shall by writing under their hands and seals declare their opinion that such regulation or ordinance

(*a*) 17 & 18 Vict. c. 81, amended by 19 & 20 Vict. c. 31, but not material as regards this section.

would be prejudicial to such school or place of education as a place of learning and education: provided always, nevertheless, that every such right of preference, when retained, shall be subject to all such regulations and ordinances as may be made by any college, or by the commissioners, under the powers given by this Act, for the purpose of making such emolument more conducive to the mutual benefit of such college and such school or place of education as aforesaid, or of throwing the same open to general or extended competition upon any vacancy for which no candidate or claimant of sufficient merit may offer himself from any school or place of education so entitled as aforesaid: provided also, that where any such governing body as aforesaid shall be a corporate body the governing body of the corporation shall be deemed the governing body of the school; and when any right of preference shall belong to any school contingently only upon the failure of fit objects from some other school or schools entitled to and in the enjoyment of a prior right of preference, then and in such case the power of dissent hereby given shall only belong to the governing body or governing bodies of the school or schools entitled to and in the enjoyment of the first right of preference; and if in any college where fellowships or studentships are tenable by undergraduates either the college or the commissioners acting in respect thereof shall divide its fellowships or studentships into elder and younger, the elder only shall be taken to be fellowships or studentships within the meaning of this section.

19 & 20 VICT. CAP. 88.

An Act to make further Provision for the good Government and Extension of the University of Cambridge, of the Colleges therein, and of the College of King Henry the Sixth at Eton.

[29*th July*, 1856.]

Right of preference belonging to schools not to be abolished in certain cases if governors of schools or charity commissioners dissent therefrom.

XXXIII. IF in the execution of the powers of this Act it shall be proposed by the governing body of any college, or the major part thereof, or by the commissioners, to make any statute for the abolition of any right of preference in elections to any emolument within any college, now lawfully belonging to any school or other place of education beyond the precincts of the University, individually named or designated in any statute, deed of composition, or other instrument of foundation or endowment and which right has been exercised or enjoyed by such school or place of education on the occurrence of any one of the three occasions next before the passing hereof on which such right might have been exercised or enjoyed, or for the conversion of any fellowship or scholarship attached to such school or other place of education into one or more scholarships or exhibitions, either partly so attached and partly open, or altogether open, where any appointment or election to any such fellowship or scholarship of a person educated in such school or place has taken place on the occurrence of any one of the three vacancies of such fellowship or scholarship next before the passing of this Act, notice thereof shall be given in writing to the governing body of every such school or place of education, and also to the commissioners appointed under "The Charitable Trusts Act, 1853," at least two calendar months before any final resolution for that purpose shall be adopted by such college or by the commissioners; and in cases where it is proposed by such statute to abolish any

right of preference in elections to any emolument other than a fellowship, or to convert any fellowship or scholarship attached to any school or other place of education into one or more scholarships or exhibitions, either partly so attached and partly open, or altogether open, no such statute shall be made if within two calendar months after receiving such notice two-thirds of the said governing body, or if there shall be several schools interested in such right of preference then two-thirds of the aggregate body composed of the several governing bodies of such schools, or the said commissioners appointed under "The Charitable Trusts Act, 1853," shall by writing under their hands and seals declare their opinion that such statute would be prejudicial to such school or place of education as a place of learning and education: provided always, that every such right of preference, when retained, shall be subject to all such statutes as may be made by the governing body of any college, or by the commissioners, under the powers given by this Act, for the purpose of making such emolument more conducive to the mutual benefit of such college and such school or place of education as aforesaid, or of throwing the same open to general or extended competition upon any vacancy for which no candidate or claimant of sufficient merit may offer himself from any school or place of education so entitled as aforesaid; provided also, that where the governing body of any such school as aforesaid shall be a corporate body, the governing body of the corporation shall be deemed the governing body of the school; and when any right of preference shall belong to any school contingently only upon the failure of fit objects from some other school or schools entitled to and in the enjoyment of a prior right of preference, then and in such case the power of dissent hereby given shall only belong to the governing body or governing bodies of the school or schools entitled to and in the enjoyment of the first right of preference; and if in any college where fellowships are tenable by undergraduates either the college or the commissioners acting in respect

thereof shall divide its fellowships into elder and younger, the elder only shall be taken to be fellowships within the meaning of this section.

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18 & 19 VICT. CAP. 120.

An Act for the better Local Management of the Metropolis.

[14*th August*, 1855.]

Saving as to baths and washhouses, metropolitan burials, markets, and charitable trusts Acts.

XCI. PROVIDED always that save as regards the appointment of auditors, nothing in this Act shall divest the vestry of any parish or any commissioners or burial board appointed by any vestry of any powers or property vested in them respectively under the provisions of the Act of the session holden in the ninth and tenth years of Her Majesty, chapter seventy-four, or any Act amending the same or under the provisions of the Act of the session holden in the fifteenth and sixteenth years of Her Majesty, chapter eighty-five, or any Act amending the same, or in anywise affect the provisions of any of the said Acts; and nothing in this Act shall extend to or affect any rights, privileges, powers or authorities vested in any persons in reference to any market or any powers or rights for or in relation to the administration of any charitable trusts save that any powers or rights in relation to any such trusts vested or which would have become vested in the existing vestry of any parish shall be vested in the vestry of such parish as constituted by this Act.

Vestry to make out and publish yearly a list of estates, charities, and bequests, &c., with the application thereof.

CXCIX. Every such vestry (*a*) as aforesaid shall cause to be made out once at least in every year a list of the several freehold, copyhold, and leasehold estates and of all charitable foundations and bequests, if any, belonging to the parish and under the control of the vestry, the list to contain a true and detailed account of the place where

(*a*) Vestry constituted under Metropolis Local Management Act.

such estate or charitable foundation may be situate or in what mode and security such bequest may be invested, specifying also the yearly rental of each, and the particular appropriation thereof, together with the names of the persons partaking of their benefit (except where such benefit shall be allotted to the poor of the parish generally), and to what amount in each case, and also stating the name and description of the persons in whom such estates are vested, and the names and descriptions of the trustees for each charity, and such lists shall be open for the inspection of the ratepayers at the office of the vestry clerk at the same time with the accounts when audited according to the provisions of this Act.

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19 & 20 VICT. CAP. 112.

An Act to amend the Act of the last Session of Parliament, Chapter One hundred and twenty, for the better Local Management of the Metropolis.

[29*th July*, 1856.]

Other powers of vestries and like meetings declared to have been transferred to vestries under Act 18 & 19 Vict. c. 120, except powers transferred to district boards.

III. SAVE as herein-before otherwise provided, all the duties, powers, and privileges (including such as relate to the affairs of the church, or the management or relief of the poor, or the administration of any money or other property applicable to the relief of the poor,) which might have been performed or exercised by any open or elected or other vestry or any such meeting as aforesaid in any parish, under any local Act or otherwise, at the time of the passing of the said Act of the last session, shall be deemed to have become transferred to and vested in the vestry constituted by such last-mentioned Act; except so far as any such duties, powers, or privileges may in the case of a parish included in any district mentioned in schedule (B.) to the said Act be vested by section ninety thereof in the board of works of such district: provided that all duties and powers relating to the affairs of the

church, or the management or relief of the poor, or the administration of any money or other property applicable to the relief of the poor, which at the time of the passing of the said Act were vested in or might be exercised by any guardians, governors, trustees, or commissioners, or any body other than any open or elected or other vestry, or any such meeting as herein-before mentioned, shall continue vested in and be exercised by such guardians, governors, trustees, or commissioners or other body as aforesaid.

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1 & 2 VICT. CAP. 74.

An Act to facilitate the Recovery of Possession of Tenements after due Determination of the Tenancy.(a)

[10*th August*, 1838.]

WHEREAS it is expedient to provide for the more speedy and effectual recovery of the possession of premises unlawfully held over after the determination of the tenancy: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act, when and so soon as the term or interest of the tenant of any house, land, or other corporeal hereditaments held by him at will or for any term not exceeding seven years, either without being liable to the payment of any rent or at a rent not exceeding the rate of twenty pounds a year, and upon which no fine shall have been reserved or made payable, shall have ended or shall have been duly determined by a legal notice to quit or otherwise, and such tenant or (if such tenant do not actually occupy the premises, or only occupy a part thereof,) any person by whom the same or

When tenant or occupier of premises where there is no rent, or where the rent does not exceed 20*l.* a year, refuses to give possession, the landlord may give him notice of his intention to proceed to recover possession under the authority of this Act.

(a) See 23 & 24 Vict. c. 136, sec. 13, p. 65.

any part thereof shall be then actually occupied shall neglect or refuse to quit and deliver up possession of the premises or of such part thereof respectively, it shall be lawful for the landlord of the said premises or his agent to cause the person so neglecting or refusing to quit and deliver up possession to be served (in the manner hereinafter mentioned) with a written notice, in the form set forth in the schedule to this Act, signed by the said landlord or his agent, of his intention to proceed to recover possession under the authority and according to the mode prescribed in this Act; and if the tenant or occupier shall not thereupon appear at the time and place appointed, and show to the satisfaction of the justices herein-after mentioned reasonable cause why possession should not be given under the provisions of this Act, and shall still neglect or refuse to deliver up possession of the premises or of such part thereof of which he is then in possession to the said landlord or his agent, it shall be lawful for such landlord or agent to give to such justices proof of the holding and of the end or other determination of the tenancy, with the time or manner thereof, and where the title of the landlord has accrued since the letting of the premises, the right by which he claims the possession, and upon proof of service of the notice, and of the neglect or refusal of the tenant or occupier, as the case may be, it shall be lawful for the justices acting for the district, division, or place within which the said premises or any part thereof shall be situate, in petty sessions assembled, or any two of them, to issue a warrant under their hands and seals to the constables and peace officers of the district, division, or place within which the said premises or any part thereof shall be situate, commanding them, within a period to be therein named, not less than twenty-one nor more than thirty clear days from the date of such warrant, to enter (by force if needful) into the premises, and give possession of the same to such landlord or agent: provided always, that entry upon any such warrant shall not be made on a Sunday, Good Friday, or Christmas

If tenant does not appear, or fails to show cause why he does not give possession, the justices may issue their warrant directing the constables to give the landlord possession.

Day, or at any time except between the hours of nine in the morning and four in the afternoon: provided also, that nothing herein contained shall be deemed to protect any person on whose application and to whom any such warrant shall be granted from any action which may be brought against him by any such tenant or occupier, for or in respect of such entry and taking possession, where such person had not at the time of granting the same lawful right to the possession of the same premises: provided also, that nothing herein contained shall affect any rights to which any person may be entitled as out-going tenant by the custom of the country or otherwise.

The manner in which such summons shall be served.

II. And be it enacted, that such notice of application intended to be made under this Act may be served either personally or by leaving the same with some person being in and apparently residing at the place of abode of the person so holding over as aforesaid, and that the person serving the same shall read over the same to the person served or with whom the same shall be left as aforesaid, and explain the purport and intent thereof: provided that if the person so holding over cannot be found, and the place of abode of such person shall either not be known or admission thereto cannot be obtained for serving such summons, the posting up of the said summons on some conspicuous part of the premises so held over shall be deemed to be good service upon such person.

How execution of warrants of possession may be stayed.

III. And be it enacted, that in every case in which the person to whom any such warrant shall be granted had not at the time of granting the same lawful right to the possession of the premises, the obtaining of any such warrant as aforesaid shall be deemed a trespass by him against the tenant or occupier of the premises, although no entry shall be made by virtue of the warrant; and in case any such tenant or occupier will become bound with two sureties as herein-after provided, to be approved of by the said justices, in such sum as to them shall seem

reasonable, regard being had to the value of the premises and to the probable costs of an action, to sue the person to whom such warrant was granted with effect and without delay, and to pay all the costs of the proceeding in such action in case a verdict shall pass for the defendant, or the plaintiff shall discontinue or not prosecute his action or become non-suit therein, execution of the warrant shall be delayed until judgment shall have been given in such action of trespass; and if upon the trial of such action of trespass a verdict shall pass for the plaintiff, such verdict and judgment thereupon shall supersede the warrant so granted, and the plaintiff shall be entitled to double costs in the said action of trespass.

Proceedings on the bond in actions of trespass.

IV. And be it enacted, that every such bond as hereinbefore mentioned shall be made to the said landlord or his agent, at the costs of such landlord or agent, and shall be approved of and signed by the said justices; and if the bond so taken be forfeited, or if upon the trial of the action for securing the trial of which such bond was given, the judge by whom it shall be tried shall not indorse upon the record in court that the condition of the bond hath been fulfilled, the party to whom the bond shall have been so made may bring an action, and recover thereon: provided always, that the court where such action as last aforesaid shall be brought may, by a rule of court, give such relief to the parties upon such bond as may be agreeable to justice, and such rule shall have the nature and effect of a defeasance to such bond.

Protection of justices, constables, &c.

V. And be it enacted, that it shall not be lawful to bring any action or prosecution against the said justices by whom such warrant as aforesaid shall have been issued, or against any constable or peace officer by whom such warrant may be executed, for issuing such warrant or executing the same respectively, by reason that the person on whose application the same shall be granted had not lawful right to the possession of the premises.

Where landlord has a lawful title he shall not be deemed a trespasser by reason of irregularity, but be liable in an action on the case for special damage proceeding from irregularity.

VI. And be it enacted, that where the landlord at the time of applying for such warrant as aforesaid had lawful right to the possession of the premises, or of the part thereof so held over as aforesaid, neither the said landlord nor his agent, nor any other person acting in his behalf, shall be deemed to be a trespasser by reason merely of any irregularity or informality in the mode of proceeding for obtaining possession under the authority of this Act, but the party aggrieved may if he think fit bring an action on the case for such irregularity or informality, in which the damage alleged to be sustained thereby shall be specially laid, and may recover full satisfaction for such special damage, with costs of suit: provided, that if the special damage so laid be not proved, the defendant shall be entitled to a verdict, and that if proved, but assessed by the jury at any sum not exceeding five shillings, the plaintiff shall recover no more costs than damages, unless the judge before whom the trial shall have been held shall certify upon the back of the record that in his opinion full costs ought to be allowed.

Interpretation clause.

VII. And be it enacted, that in construing this Act the word "premises" shall be taken to signify lands, houses, or other corporeal hereditaments; and that the word "person" shall be taken to comprehend a body politic, corporate, or collegiate as well as an individual; and that every word importing the singular number shall where necessary to give full effect to the enactments herein contained, be deemed to extend and be applied to several persons or things as well as one person or thing; and that every word importing the masculine gender shall where necessary extend and be applied to a female as well as a male; and that the term "landlord" shall be understood as signifying the person entitled to the immediate reversion of the premises, or, if the property be held in joint-tenancy, coparcenary, or tenancy in common, shall be understood as signifying any one of the persons entitled to such reversion; and that the word "agent"

shall be taken to signify any person usually employed by the landlord in the letting of the premises or in the collection of the rents thereof, or specially authorized to act in the particular matter by writing under the hand of such landlord.

Not to extend to Scotland or Ireland.

VIII. And be it enacted, that this Act shall not extend to Scotland or Ireland.

Act may be repealed or altered.

IX. And be it enacted, that this Act may be amended or repealed by any Act to be passed in the present session of parliament.

SCHEDULE TO WHICH THIS ACT REFERS.

FORM, No. 1.

NOTICE OF OWNER'S INTENTION TO APPLY TO JUSTICES TO RECOVER POSSESSION.

I —— [owner, *or* agent to —— the owner, *as the case may be*,] do hereby give you notice, that unless peaceable possession of the tenement [*shortly describing it*] situate —— which was held of me, *or* of the said —— [*as the case may be*] under a tenancy from year to year, *or* [*as the case may be*], which expired [*or* was determined] by notice to quit from the said —— *or otherwise* [*as the case may be*] on the —— day of ——, and which tenement is now held over and detained from the said —— be given to —— [the owner *or* agent] on or before the expiration of seven clear days from the service of this notice, I —— shall on —— next the —— day of —— at —— of the clock of the same day, at ——, apply to Her Majesty's justices of the peace acting for the district of —— [*being the district, division, or place in which the said tenement, or any part thereof, is situate*], in petty sessions assembled, to issue their warrant directing the constables of the said

district to enter and take possession of the said tenement, and to eject any person therefrom.

Dated this

(Signed)

To Mr. [Owner *or* Agent.]

FORM, No. 2.

COMPLAINT BEFORE TWO JUSTICES.

THE complaint of —— [owner *or* agent, *&c., as the case may be,*] made before us two of Her Majesty's justices of the peace acting for the district of ——, in petty sessions assembled, who saith that the said —— did let to —— a tenement, consisting of ——, for —— under the rent of ——, and that the said tenancy expired [*or* was determined by notice to quit, given by the said ——, *as the case may be,*] on the —— day of —— and that on the —— day of —— the said —— did serve on —— [*the tenant over-holding*] a notice in writing of his intention to apply to recover possession of the said tenement (a duplicate of which notice is hereto annexed), by giving, *&c.* [*describing the mode in which the service was effected*]; and that notwithstanding the said notice the said —— refused [*or* neglected] to deliver up possession of the said tenement, and still detains the same.

(Signed)

Taken the —— day of —— before us

(Signed)

[A duplicate of the notice of intention to apply is to be annexed to this complaint.]

FORM, No. 3.

WARRANT TO PEACE OFFICERS TO TAKE AND GIVE POSSESSION.

WHEREAS [*set forth the complaint*], we two of Her Majesty's justices of the peace, in petty sessions assembled, acting for the —— of ——, do authorize and command you, on any day within —— days from the date hereof [except on Sunday, Christmas Day, and Good Friday, *to be added if necessary*], between the hours of nine in the forenoon and four in the afternoon, to enter (by force, if needful,) and with or without the aid of —— the owner *or* agent, *as the case may be*, or any other person or persons whom you may think requisite to call to your assistance, into and upon the said tenement, and to eject thereout any person, and of the said tenement full and peaceable possession to deliver to the said —— [the owner *or* agent].

Given under our hands and seals this —— day of ——

To —— and all other constables and peace officers acting for the district of ——

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9 & 10 VICT. CAP. 95.

An Act for the more easy Recovery of Small Debts and Demands in England.

[28*th August*, 1846.]

Possession of small tenements may be recovered by plaint in county court.

CXXII. AND be it enacted, that when and so soon as the term and interest of the tenant of any house, land, or other corporeal hereditament, where the value of the premises or the rent payable in respect of such tenancy did not exceed the sum of fifty pounds by the year, and upon which no fine shall have been paid, shall have ended, or shall have been duly determined by a legal notice to quit, and such tenant, or if such tenant do not actually

occupy the premises, or occupy only a part thereof, any person by whom the same or any part thereof shall be then actually occupied, shall neglect or refuse to quit and deliver up possession of the premises, or of such part thereof respectively, it shall be lawful for the landlord or his agent to enter a plaint in the county court to be holden under this Act, and thereupon a summons shall issue to the person so neglecting or refusing; and if the tenant or occupier shall not thereupon appear at the time and place appointed, and show cause to the contrary, and shall still neglect or refuse to deliver up possession of the premises, or of such part thereof of which he is then in possession to the said landlord or his agent, it shall be lawful for such landlord or agent to give to the court proof of the holding, and of the end or other determination of the tenancy, with the time or manner thereof, and, where the title of the landlord has accrued since the letting of the premises, the right by which he claims the possession; and upon proof of service of the summons, and of the neglect or refusal of the tenant or occupier, as the case may be, it shall be lawful for the judge to issue a warrant under the seal of the court to any bailiff of the court, requiring and authorizing him within a period to be therein named, not less than seven or more than ten clear days, from the date of such warrant, to give possession of the premises to such landlord or agent; and such warrant shall be a sufficient warrant to the said bailiff to enter upon the premises, with such assistants as he shall deem necessary, and to give possession accordingly; provided always, that entry upon any such warrant shall not be made on a Sunday, Good Friday, or Christmas Day, or at any time except between the hours of nine in the morning and four in the afternoon: provided also, that nothing herein contained shall be deemed to protect any person by whom any such warrant shall be sued out of the county court from any action which may be brought against him by any such tenant or occupier, for or in respect of such entry and taking possession where such

If tenant, &c., neglect to appear, or refuse to give possession, judge may, on proof of service of summons, issue warrant to enforce the same.

person had not, at the time of suing out the same as aforesaid, lawful right to the possession of the same premises.

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19 & 20 VICT. CAP. 108.

An Act to amend the Acts relating to the County Courts.

[29*th July*, 1856.]

Possession of small tenements may be recovered in county courts by landlord where term has expired or been determined by notice.

L. WHEN the term and interest of the tenant of any corporeal hereditament, where neither the value of the premises nor the rent payable in respect thereof shall have exceeded fifty pounds by the year, and upon which no fine or premium shall have been paid, shall have expired, or shall have been determined either by the landlord or the tenant by a legal notice to quit, and such tenant, or any person holding or claiming by, through, or under him, shall neglect or refuse to deliver up possession accordingly, the landlord may enter a plaint at his option, either against such tenant or against such person so neglecting or refusing, in the County Court of the district in which the premises lie for the recovery of the same, and thereupon a summons shall issue to such tenant or such person so neglecting or refusing; and if the defendant shall not, at the time named in the summons, show good cause to the contrary, then, on proof of his still neglecting or refusing to deliver up possession of the premises, and of the yearly value and rent of the premises, and of the holding, and of the expiration or other determination of the tenancy, with the time and manner thereof, and of the title of the plaintiff if such title has accrued since the letting of the premises, and of the service of the summons if the defendant shall not appear thereto, the judge may order that possession of the premises mentioned in the plaint be given by the defendant to the plaintiff, either forthwith or on or before such day as the judge shall think fit to name; and if

such order be not obeyed, the registrar, whether such order can be proved to have been served or not, shall at the instance of the plaintiff issue a warrant authorizing and requiring the high bailiff of the court to give possession of such premises to the plaintiff.

In plaint for recovery of possession, plaintiff may claim for rent and mesne profits.

LI. In any such plaint against a tenant as in the last preceding section is specified the plaintiff may add a claim for rent or mesne profits or both, down to the day appointed for the hearing, or to any preceding day named in the plaint, so as the same shall not exceed fifty pounds, and any misdescription in the nature of such claim may be amended at the trial.

Possession of small tenements may be recovered in county court by landlords for non-payment of rent.

LII. When the rent of any corporeal hereditament, where neither the value of the premises nor the rent payable in respect thereof exceeds fifty pounds by the year, shall for one half year be in arrear, and the landlord shall have right by law to re-enter for the non-payment thereof, he may, without any formal demand or re-entry, enter a plaint in the County Court of the district in which the premises lie for the recovery of the premises, and thereupon a summons shall issue to the tenant, the service whereof shall stand in lieu of a demand and re-entry; and if the tenant shall five clear days before the return day of such summons pay into court all the rent in arrear, and the costs, the said action shall cease, but if he shall not make such payment, and shall not at the time named in the summons show good cause why the premises should not be recovered, then, on proof of the yearly value and rent of the premises, and of the fact that one half year's rent was in arrear before the plaint was entered, and that no sufficient distress was then to be found on the premises to countervail such arrear, and of the landlord's power to re-enter, and of the rent being still in arrear, and of the title of the plaintiff if such title has accrued since the letting of the premises, and of the service of the summons if the defendant shall

not appear thereto, the judge may order that possession of the premises mentioned in the plaint be given by the defendant to the plaintiff on or before such day, not being less than four weeks from the day of hearing, as the judge shall think fit to name, unless within that period all the rent in arrear and the costs be paid into court; and if such order be not obeyed, and such rent and costs be not so paid, the registrar shall, whether such order can be proved to have been served or not, at the instance of the plaintiff, issue a warrant authorizing and requiring the high bailiff of the court to give possession of such premises to the plaintiff, and the plaintiff shall from the time of the execution of such warrant hold the premises discharged of the tenancy, and the defendant, and all persons claiming by, through, or under him, shall so long as the order of the court remains unreversed, be barred from all relief in equity or otherwise.

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8 VICT. CAP. 18.

An Act for consolidating in One Act certain Provisions usually inserted in Acts authorizing the taking of Lands for Undertakings of a public Nature.

[*8th May*, 1845.]

WHEREAS it is expedient to comprise in one general Act sundry provisions usually introduced into Acts of parliament relative to the acquisition of lands required for undertakings or works of a public nature, and to the compensation to be made for the same, and that as well for the purpose of avoiding the necessity of repeating such provisions in each of the several Acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves: may it therefore please your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the

advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that this Act shall apply to every undertaking authorized by any Act which shall hereafter be passed, and which shall authorize the purchase or taking of lands for such undertaking, and this Act shall be incorporated with such Act; and all the clauses and provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorized thereby, so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other Act which shall be incorporated with such Act, form part of such Act, and be construed, together therewith, as forming one Act.

Act to apply to all undertakings authorized by Acts hereafter to be passed.

And with respect to the construction of this Act and of Acts to be incorporated therewith, be it enacted as follows:

Interpretations in this Act:

II. The expression "the special Act," used in this Act, shall be construed to mean any Act which shall be hereafter passed which shall authorize the taking of lands for the undertaking to which the same relates, and with which this Act shall be so incorporated as aforesaid; and the word "prescribed," used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special Act" had been used; and the expression "the works" or "the undertaking" shall mean the works or undertaking, of whatever nature, which shall by the special Act be authorized to be executed; and the expression "the promoters of the undertaking" shall mean the parties, whether company, undertakers, commissioners, trustees, corporations, or

"special Act:"

"prescribed:"

"the works:"

"promoters of the undertaking."

private persons, by the special Act empowered to execute such works or undertaking.

Interpretations in this and the special Act:

III. The following words and expressions, both in this and the special Act, shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction; (that is to say,)

number: Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number:

gender: Words importing the masculine gender only shall include females:

"lands:" The word "lands" shall extend to messuages, lands, tenements, and hereditaments of any tenure:

"lease:" The word "lease" shall include an agreement for a lease:

"month:" The word "month" shall mean calendar month.

"superior courts:" The expression "superior courts" shall mean Her Majesty's superior courts of record at Westminster or Dublin, as the case may require:

"oath:" The word "oath" shall include affirmation in the case of Quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath:

"county:" The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town:

"the sheriff:" The word "sheriff" shall include under sheriff, or other legally competent deputy; and where any matter in relation to any lands is required to be done by any sheriff, or by any clerk of the peace, the expression "the Sheriff," or the expression "the clerk of the peace," shall in such case be construed to mean the sheriff or the clerk of the peace of the county, city, borough, liberty, cinque port, or place where such lands shall be situate; and if the lands

"the clerk of the peace:"

in question, being the property of one and the same party, be situate not wholly in one county, city, borough, liberty, cinque port, or place, the same expression shall be construed to mean the sheriff or clerk of the peace of any county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate:

"justices:" The word "justices" shall mean justices of the peace acting for the county, city, liberty, cinque port, or place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where such matter shall arise in respect of lands being the property of one and the same party, situate not wholly in any one county, city, borough, liberty, cinque port, or place, the same shall mean a justice acting for the county, city, borough, liberty, cinque port, or place, where any part of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together.

"two justices:"

"owner:" Where under the provisions of this or the special Act, or any Act incorporated therewith, any notice shall be required to be given to the owner of any lands, or where any Act shall be authorized or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any person or corporation who, under the provisions of this or the special Act, would be enabled to sell and convey lands to the promoters of the undertaking:

"the Bank." The expression "the Bank" shall mean the Bank of England where the same shall relate to monies to be paid or deposited in respect of lands situate in England, and shall mean the Bank of Ireland where the same shall relate to monies to be paid or deposited in respect of lands situate in Ireland.

Short title of the Act.

IV. And be it enacted, that in citing this Act in other Acts of parliament, and in legal instruments, it shall be sufficient to use the expression "The Lands Clauses Consolidation Act, 1845."

Form in which portions of this Act may be incorporated with other Acts.

V. And whereas it may be convenient in some cases to incorporate with Acts of Parliament hereafter to be passed some portion only of the provisions of this Act; be it therefore enacted, that, for the purpose of making any such incorporation, it shall be sufficient in any such Act to enact that the clauses of this Act with respect to the matter so proposed to be incorporated (describing such matter as it is described in this Act in the words introductory to the enactment with respect to such matter,) shall be incorporated with such Act, and thereupon all the clauses and provisions of this Act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such Act shall relate.

Purchase of lands by agreement.

And with respect to the purchase of lands by agreement, be it enacted as follows:

Power to purchase lands by agreement.

VI. Subject to the provisions of this and the special Act it shall be lawful for the promoters of the undertaking to agree with the owners of any lands by the special Act authorized to be taken, and which shall be required for the purposes of such Act, and with all parties having any estate or interest in such lands, or by this or the special Act enabled to sell and convey the same, for the absolute purchase, for a consideration in money, of any such lands, or such parts thereof as they shall think proper, and of all estates and interests in such lands of what kind soever.

Parties under disability enabled to sell and convey.

VII. It shall be lawful for all parties, being seised, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the promoters of the undertaking, and to enter into all necessary agreements for that purpose; and particularly it shall be lawful for all or any of the following parties so seised, possessed, or entitled as aforesaid so to sell, convey, or release; (that is to say,) all corporations, tenants in tail or for life, married women seised in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators, and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower, or to any lease for life, or for lives and years, or for years, or any less interest; and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties, other than married women entitled to dower, or lessees for life, or for lives and years, or for years, or for any less interest, not only on behalf of themselves and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder, or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians, on behalf of their wards, and as to such committees, on behalf of the lunatics and idiots of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this or the special Act if they had respectively been under no disability, and as to such trustees, executors, and administrators, on behalf of their *cestui que trusts* whether infants, issue unborn, lunatics, femes covert, or other persons, and that to the same extent as such *cestui que trusts* respectively could have

exercised the same powers under the authority of this and the special Act if they had respectively been under no disability.

Parties under disability to exercise other powers.

VIII. The power herein-after given to enfranchise copyhold lands, as well as every other power required to be exercised by the lord of any manor pursuant to the provisions of this or the special Act, or any Act incorporated therewith, and the power to release lands from any rent, charge, or incumbrance, and to agree for the apportionment of any such rent, charge, or incumbrance, shall extend to and may lawfully be exercised by every party herein-before enabled to sell and convey or release lands to the promoters of the undertaking.

Amount of compensation in case of parties under disability to be ascertained by valuation, and paid into the Bank.

IX. The purchase money or compensation to be paid for any lands to be purchased or taken from any party under any disability or incapacity, and not having power to sell or convey such lands except under the provisions of this or the special Act, and the compensation to be paid for any permanent damage or injury to any such lands, shall not, except where the same shall have been determined by the verdict of a jury, or by arbitration, or by the valuation of a surveyor appointed by two justices under the provisions herein-after contained, be less than shall be determined by the valuation of two able practical surveyors, one of whom shall be nominated by the promoters of the undertaking, and the other by the other party, and if such two surveyors cannot agree in the valuation, then by such third surveyor as any two justices shall upon application of either party, after notice to the other party, for that purpose nominate; and each of such two surveyors if they agree, or if not then the surveyor nominated by the said justices, shall annex to the valuation a declaration in writing, subscribed by them or him, of the correctness thereof; and all such purchase money or compensation shall be deposited in the bank for the benefit of the parties interested, in manner herein-after mentioned.

Where vendor absolutely entitled, lands may be sold on chief rents.

X. It shall be lawful for any person seised in fee of, or entitled to dispose of absolutely for his own benefit, any lands authorized to be purchased for the purposes of the special Act to sell and convey such lands or any part thereof unto the promoters of the undertaking, in consideration of an annual rent-charge payable by the promoters of the undertaking, but, except as aforesaid, the consideration to be paid for the purchase of any such lands, or for any damage done thereto, shall be in a gross sum.

Payment of rents to be charged on tolls.

XI. The yearly rents reserved by any such conveyance shall be charged on the tolls or rates, if any, payable under the special Act, and shall be otherwise secured in such manner as shall be agreed between the parties, and shall be paid by the promoters of the undertaking as such rents become payable; and if at any time any such rents be not paid within thirty days after they so become payable, and after demand thereof in writing, the person to whom any such rent shall be payable may either recover the same from the promoters of the undertaking, with costs of suit, by action of debt in any of the superior courts, or it shall be lawful for him to levy the same by distress of the goods and chattels of the promoters of the undertaking.

Power to purchase lands required for additional accommodation.

XII. In case the promoters of the undertaking shall be empowered by special Act to purchase lands for extraordinary purposes, it shall be lawful for all parties who, under the provisions herein-before contained, would be enabled to sell and convey lands, to sell and convey the lands so authorized to be purchased for extraordinary purposes.

Authority to sell and repurchase such lands.

XIII. It shall be lawful for the promoters of the undertaking to sell the lands which they shall have so acquired for extraordinary purposes, or any part thereof, in such manner, and for such considerations, and to such persons, as the promoters of the undertaking may think fit, and

again to purchase other lands for the like purposes, and afterwards sell the same, and so from time to time; but the total quantity of land to be held at any one time by the promoters of the undertaking, for the purposes aforesaid, shall not exceed the prescribed quantity.

Restraint on purchase from incapacitated persons.

XIV. The promoters of the undertaking shall not, by virtue of the power to purchase lands for extraordinary purposes, purchase more than the prescribed quantity from any party under legal disability, or who would not be able to sell and convey such lands except under the powers of this and the special Act; and if the promoters of the undertaking purchase the said quantity of land from any party under such legal disability, and afterwards sell the whole or any part of the land so purchased, it shall not be lawful for any party being under legal disability to sell to the promoters of the undertaking any other lands in lieu of the land so sold or disposed of by them.

Municipal corporations not to sell without the approbation of the Treasury.

XV. Nothing in this or the special Act contained shall enable any municipal corporation to sell for the purposes of the special Act, without the approbation of the commissioners of Her Majesty's treasury of the United Kingdom of Great Britain and Ireland, or any three of them, any lands which they could not have sold without such approbation before the passing of the special Act, other than such lands as the company are by the powers of this or the special Act empowered to purchase or take compulsorily.

Application of compensation.

And with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title, be it enacted as follows:

Purchase money payable to parties un-

LXIX. If the purchase money or compensation which shall be payable in respect of any lands, or any interest

therein, purchased or taken by the promoters of the undertaking from any corporation, tenant for life or in tail, married woman seised in her own right or entitled to dower, guardian, committee of lunatic or idiot, trustee, executor or administrator, or person having a partial or qualified interest only in such lands, and not entitled to sell or convey the same except under the provisions of this or the special Act, or the compensation to be paid for any permanent damage to any such lands, amount to or exceed the sum of two hundred pounds, the same shall be paid into the Bank, in the name and with the privity of the accountant-general of the Court of Chancery in England if the same relate to lands in England or Wales, or the accountant-general of the Court of Exchequer in Ireland if the same relate to lands in Ireland, to be placed to the account there of such accountant-general, *ex parte* the promoters of the undertaking (describing them by their proper name), in the matter of the special Act (citing it), pursuant to the method prescribed by any Act for the time being in force for regulating monies paid into the said courts; and such monies shall remain so deposited until the same be applied to some one or more of the following purposes; (that is to say,)

Under disability amounting to 200*l.* to be deposited in the Bank.

In the purchase or redemption of the land tax, or the discharge of any debt or incumbrance affecting the land in respect of which such money shall have been paid, or affecting other lands settled therewith to the same or the like uses, trusts, or purposes; or

Application of monies deposited.

In the purchase of other lands to be conveyed, limited, and settled upon the like uses, trusts, and purposes, and in the same manner, as the lands in respect of which such money shall have been paid stood settled; or

If such money shall be paid in respect of any buildings taken under the authority of this or the special Act, or injured by the proximity of the works, in removing or replacing such buildings, or substituting others in

their stead, in such manner as the Court of Chancery shall direct; or

In payment to any party becoming absolutely entitled to such money.

Order for application and investment meanwhile.

LXX. Such money may be so applied as aforesaid upon an order of the Court of Chancery in England or the Court of Exchequer in Ireland, made on the petition of the party who would have been entitled to the rents and profits of the lands in respect of which such money shall have been deposited; and until the money can be so applied it may, upon the like order, be invested by the said accountant-general in the purchase of Three per centum Consolidated or Three per centum Reduced Bank Annuities, or in government or real securities, and the interest, dividends and annual proceeds thereof paid to the party who would for the time being have been entitled to the rents and profits of the lands.

Sums from 20*l.* to 200*l.* to be deposited or paid to trustees.

LXXI. If such purchase money or compensation shall not amount to the sum of two hundred pounds, and shall exceed the sum of twenty pounds, the same shall either be paid into the bank, and applied in the manner hereinbefore directed with respect to sums amounting to or exceeding two hundred pounds, or the same may lawfully be paid to two trustees, to be nominated by the parties entitled to the rents or profits of the lands in respect whereof the same shall be payable, such nomination to be signified by writing under the hands of the party so entitled; and in case of the coverture, infancy, lunacy, or other incapacity of the parties entitled to such monies, such nomination may lawfully be made by their respective husbands, guardians, committees, or trustees; but such last-mentioned application of the monies shall not be made unless the promoters of the undertaking approve thereof and of the trustees named for the purpose; and the money so paid to such trustees, and the produce arising therefrom, shall be by such trustees applied in the manner

herein-before directed with respect to money paid into the bank, but it shall not be necessary to obtain any order of the court for that purpose.

Sums not exceeding 20*l.* to be paid to parties.

LXXII. If such money shall not exceed the sum of twenty pounds, the same shall be paid to the parties entitled to the rents and profits of the lands in respect whereof the same shall be payable, for their own use and benefit, or in case of the coverture, infancy, idiotcy, lunacy, or other incapacity of any such parties, then such money shall be paid, for their use, to the respective husbands, guardians, committees, or trustees of such persons.

All sums payable under contract with persons not absolutely entitled, to be paid into bank.

LXXIII. All sums of money exceeding twenty pounds, which may be payable by the promoters of the undertaking in respect of the taking, using, or interfering with any lands under a contract or agreement with any person who shall not be entitled to dispose of such lands, or of the interest therein contracted to be sold by him, absolutely for his own benefit, shall be paid into the bank or to trustees in manner aforesaid; and it shall not be lawful for any contracting party not entitled as aforesaid to retain to his own use any portion of the sums so agreed or contracted to be paid for or in respect of the taking, using, or interfering with any such lands, or in lieu of bridges, tunnels, or other accommodation works, or for assenting to or not opposing the passing of the Bill authorizing the taking of such lands, but all such monies shall be deemed to have been contracted to be paid for and on account of the several parties interested in such lands, as well in possession as in remainder, reversion, or expectancy: provided always, that it shall be in the discretion of the Court of Chancery in England or the Court of Exchequer in Ireland, or the said trustees, as the case may be, to allot to any tenant for life, or for any other partial or qualified estate, for his own use, a portion of the sum so paid into the bank, or to such trustees as aforesaid, as compensation for any injury, inconvenience, or annoyance which he may be

considered to sustain, independently of the actual value of the lands to be taken, and of the damage occasioned to the lands held therewith, by reason of the taking of such lands and the making of the works.

Court of Chancery may direct application of money in respect of leases or reversions as they may think just.

LXXIV. Where any purchase money or compensation paid into the bank under the provisions of this or the special Act shall have been paid in respect of any lease for a life or lives or years, or for a life or lives and years, or any estate in lands less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, it shall lawful for the Court of Chancery in England or the Court of Exchequer in Ireland, on the petition of any party interested in such money, to order that the same shall be laid out, invested, accumulated, and paid in such manner as the said court may consider will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate, or reversion in respect of which such money shall have been paid, or as near thereto as may be.

Upon deposit being made, the owners of the lands to convey, or in default the lands to vest in the promoters of the undertaking upon a deed poll being executed.

LXXV. Upon deposit in the bank in manner hereinbefore provided of the purchase money or compensation agreed or awarded to be paid in respect of any lands purchased or taken by the promoters of the undertaking under the provisions of this or the special Act, or any Act incorporated therewith, the owner of such lands, including in such term all parties by this Act enabled to sell or convey lands, shall, when required so to do by the promoters of the undertaking, duly convey such lands to the promoters of the undertaking, or as they shall direct; and in default thereof, or if he fail to adduce a good title to such lands to their satisfaction, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll under their common seal if they be a corporation, or if they be not a corporation under the hands and seals of the promoters, or any two of them, containing a description of the lands in respect of which

such default shall be made, and reciting the purchase or taking thereof by the promoters of the undertaking, and the names of the parties from whom the same were purchased or taken, and the deposit made in respect thereof, and declaring the fact of such default having been made, and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein; and thereupon all the estate and interest in such lands of or capable of being sold and conveyed by the party between whom and the promoters of the undertaking such agreement shall have been come to, or as between whom and the promoters of the undertaking such purchase money or compensation shall have been determined by a jury, or by arbitrators, or by a surveyor appointed by two justices as herein provided, and shall have been deposited as aforesaid, shall vest absolutely in the promoters of the undertaking, and as against such parties, and all parties on behalf of whom they are hereinbefore enabled to sell and convey, the promoters of the undertaking shall be entitled to immediate possession of such lands.

Where parties refuse to convey, or do not show title, or cannot be found, the purchase money to be deposited.

LXXVI. If the owner of any such lands purchased or taken by the promoters of the undertaking, or of any interest therein, on tender of the purchase money or compensation either agreed or awarded to be paid in respect thereof, refuse to accept the same, or neglect or fail to make out a title to such lands, or to the interest therein claimed by him, to the satisfaction of the promoters of the undertaking, or if he refuse to convey or release such lands as directed by the promoters of the undertaking, or if any such owner be absent from the kingdom, or cannot after diligent inquiry be found, or fail to appear on the inquiry before a jury, as herein provided for, it shall be lawful for the promoters of the undertaking to deposit the purchase money or compensation payable in respect of such lands, or any interest therein, in the bank, in the name and with

the privity of the accountant-general of the Court of Chancery in England or the Court of Exchequer in Ireland, to be placed, except in the cases herein otherwise provided for, to his account there, to the credit of the parties interested in such lands (describing them so far as the promoters of the undertaking can do), subject to the control and disposition of the said court.

Upon deposit being made a receipt to be given, and the lands to vest upon a deed poll being executed.

LXXVII. Upon any such deposit of money as last aforesaid being made the cashier of the bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction, a receipt for such money, specifying therein for what and for whose use (described as aforesaid) the same shall have been received, and in respect of what purchase the same shall have been paid in; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll under their common seal if they be a corporation, or if they be not a corporation under the hands and seals of the said promoters, or any two of them, containing a description of the lands in respect whereof such deposit shall have been made, and declaring the circumstances under which and the names of the parties to whose credit such deposit shall have been made, and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein; and thereupon all the estate and interest in such lands of the parties for whose use and in respect whereof such purchase money or compensation shall have been deposited shall vest absolutely in the promoters of the undertaking, and as against such parties they shall be entitled to immediate possession of such lands.

Application of monies so deposited.

LXXVIII. Upon the application by petition of any party making claim to the money so deposited as last aforesaid, or any part thereof, or to the lands in respect whereof the same shall have been so deposited, or any

part of such lands, or any interest in the same, the said Court of Chancery in England or the Court of Exchequer in Ireland may, in a summary way, as to such court shall seem fit, order such money to be laid out or invested in the public funds, or may order distribution thereof, or payment of the dividends thereof, according to the respective estates, titles, or interests of the parties making claim to such money or lands, or any part thereof, and may make such other order in the premises as to such court shall seem fit.

Party in possession to be deemed the owner.

LXXIX. If any question arise respecting the title to the lands in respect whereof such monies shall have been so paid or deposited as aforesaid, the parties respectively in possession of such lands, as being the owners thereof, or in receipt of the rents of such lands, as being entitled thereto at the time of such lands being purchased or taken, shall be deemed to have been lawfully entitled to such lands, until the contrary be shown to the satisfaction of the court; and unless the contrary be shown as aforesaid, the parties so in possession, and all parties claiming under them, or consistently with their possession, shall be deemed entitled to the money so deposited, and to the dividends or interest of the annuities or securities purchased therewith, and the same shall be paid and applied accordingly.

Costs in cases of money deposited.

LXXX. In all cases of monies deposited in the bank under the provisions of this or the special Act, or an Act incorporated therewith, except where such monies shall have been so deposited by reason of the wilful refusal of any party entitled thereto to receive the same, or to convey or release the lands in respect whereof the same shall be payable, or by reason of the wilful neglect of any party to make out a good title to the land required, it shall be lawful for the Court of Chancery in England or the Court of Exchequer in Ireland to order the costs of the following matters, including therein all reasonable

charges and expenses incident thereto, to be paid by the promoters of the undertaking: (that is to say,) the costs of the purchase or taking of the lands, or which shall have been incurred in consequence thereof, other than such costs as are herein otherwise provided for, and the costs of the investment of such monies in government or real securities, and of the reinvestment thereof in the purchase of other lands, and also the costs of obtaining the proper orders for any of the purposes aforesaid, and of the orders for the payment of the dividends and interest of the securities upon which such monies shall be invested, and for the payment out of court of the principal of such monies, or of the securities whereon the same shall be invested, and of all proceedings relating thereto, except such as are occasioned by litigation between adverse claimants: provided always, that the costs of one application only for reinvestment in land shall be allowed, unless it shall appear to the Court of Chancery in England or the Court of Exchequer in Ireland that it is for the benefit of the parties interested in the said monies that the same should be invested in the purchase of lands, in different sums and at different times, in which case it shall be lawful for the court, if it think fit, to order the costs of any such investments to be paid by the promoters of the undertaking.

Conveyances. And with respect to the conveyances of lands, be it enacted as follows:—

Form of conveyances. LXXXI. Conveyances of lands to be purchased under the provisions of this or the special Act, or any Act incorporated therewith, may be according to the forms in the schedules (A.) and (B.) respectively to this Act annexed, or as near thereto as the circumstances of the case will admit, or by deed in any other form which the promoters of the undertaking may think fit; and all conveyances made according to the forms in the said schedules or as near thereto as the circumstances of the

case will admit shall be effectual to vest the lands thereby conveyed in the promoters of the undertaking, and shall operate to merge all terms of years attendant by express declaration, or by construction of law, on the estate or interest so thereby conveyed, and to bar and to destroy all such estates tail, and all other estates, rights, titles, remainders, reversions, limitations, trusts, and interests whatsoever, of and in the lands comprised in such conveyances which shall have been purchased or compensated for by the consideration therein mentioned; but although terms of years be thereby merged, they shall in Equity afford the same protection as if they had been kept on foot, and assigned to a trustee for the promoters of the undertaking to attend the reversion and inheritance.

Costs of conveyances.

LXXXII. The costs of all such conveyances shall be borne by the promoters of the undertaking, and such costs shall include all charges and expenses incurred, on the part as well of the seller as of the purchaser, of all conveyances and assurances of any such lands, and of any outstanding terms or interests therein, and of deducing, evidencing, and verifying the title to such lands, terms, or interests, and of making out and furnishing such abstracts and attested copies as the promoters of the undertaking may require, and all other reasonable expences incident to the investigation, deduction, and verification of such title.

Taxation of costs of conveyances.

LXXXIII. If the promoters of the undertaking and the party entitled to any such costs shall not agree as to the amount thereof, such costs shall be taxed by one of the taxing masters of the Court of Chancery, or by a master in chancery in Ireland, upon an order of the same court, to be obtained upon petition in a summary way by either of the parties; and the promoters of the undertaking shall pay what the said master shall certify to be due in respect of such costs to the party entitled thereto, or in

default thereof the same may be recovered in the same way as any other costs payable under an order of the said court, or the same may be recovered by distress in the manner herein-before provided in other cases of costs; and the expence of taxing such costs shall be borne by the promoters of the undertaking, unless upon such taxation one sixth part of the amount of such costs shall be disallowed, in which case the costs of such taxation shall be borne by the party whose costs shall be so taxed, and the amount thereof shall be ascertained by the said master, and deducted by him accordingly in his certificate of such taxation.

And with respect to copyhold lands, be it enacted as follows :—

Conveyance of copyhold lands to be enrolled.

XCV. Every conveyance to the promoters of the undertaking, of any lands which shall be of copyhold or customary tenure, or of the nature thereof, shall be entered on the rolls of the manor of which the same shall be held or parcel; and on payment to the steward of such manor of such fees as would be due to him on the surrender of the same lands to the use of a purchaser thereof he shall make such enrolment; and every such conveyance, when so enrolled, shall have the like effect, in respect of such copyhold or customary lands, as if the same had been of freehold tenure, nevertheless, until such lands shall have been enfranchised by virtue of the powers herein-after contained, they shall continue subject to the same fines, rents, heriots, and services as were theretofore payable and of right accustomed.

Copyhold lands to be enfranchised.

XCVI. Within three months after the enrolment of the conveyance of any such copyhold or customary lands, or within one month after the promoters of the undertaking shall enter upon and make use of the same for the purposes of the works, whichever shall first happen, or if more than one parcel of such lands holden of the same

manor shall have been taken by them, then within one month after the last of such parcels shall have been so taken or entered on by them, the promoters of the undertaking shall procure the whole of the lands holden of such manor so taken by them to be enfranchised, and for that purpose shall apply to the lord of the manor whereof such lands are holden to enfranchise the same, and shall pay to him such compensation in respect thereof as shall be agreed upon between them and him, and if the parties fail to agree respecting the amount of the compensation to be paid for such enfranchisement the same shall be determined as in other cases of disputed compensation; and in estimating such compensation the loss in respect of the fines, heriots, and other services payable on death, descent, or alienation, or any other matters which would be lost by the vesting of such copyhold or customary lands in the promoters of the undertaking, or by the enfranchisement of the same, shall be allowed for.

Lord of the Manor to enfranchise on payment of compensation.

XCVII. Upon payment or tender of the compensation so agreed upon or determined, or on deposit thereof in the bank in any of the cases herein-before in that behalf provided, the lord of the manor whereof such copyhold or customary lands shall be holden shall enfranchise such lands, and the lands so enfranchised shall for ever thereafter be held in free and common soccage; and in default of such enfranchisement by the lord of the manor, or if he fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for them, if they think fit, to execute a deed poll, duly stamped, in the manner herein-before provided in the case of the purchase of lands by them, and thereupon the lands in respect of the enfranchisement whereof such compensation shall have been deposited as aforesaid shall be deemed to be enfranchised, and shall be for ever thereafter held in free and common soccage.

Apportionment

XCVIII. If any such copyhold or customary lands be

of copyhold rents.

subject to any customary or other rent, and part only of the land subject to any such rent be required to be taken for the purposes of the special Act, the apportionment of such rent may be settled by agreement between the owner of the lands and the lord of the manor on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement, then the same shall be settled by two justices; and the enfranchisement of any copyhold or customary lands taken by virtue of this or the special Act, or the apportionment of such rents, shall not affect in other respects any custom by or under which any such copyhold or customary lands not taken for such purposes shall be held; and if any of the lands so required be released from any portion of the rents to which they were subject jointly with any other lands, such last-mentioned lands shall be charged with the remainder only of such rents; and with reference to any such apportioned rents, the lord of the manor shall have all the same rights and remedies over the lands to which such apportioned rent shall have been assigned or attributed as he had previously over the whole of the lands subject to such rents for the whole of such rents.

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15 & 16 VICT. CAP. 85.

An Act to amend the Laws concerning the Burial of the Dead in the Metropolis.

[1*st July*, 1852.]

Burial board may with approval of vestry, &c. appropriate land belonging to parish.

XXIX. PROVIDED always, that any burial board under this Act, with the approval of the vestry and of the guardians of the poor of the parish (if any), and of the poor law board, may from time to time appropriate for the purposes of a burial ground for such parish, either alone or jointly with any other parish or parishes, any land vested in such guardians, or in the churchwardens,

or in the churchwardens and overseers of the parish, or in any feoffees, trustees, or others, for the general benefit of the parish, or for any specific charity: provided always, that where any land so taken and appropriated shall be subject to any charitable use, such lands shall be taken on such conditions only as the Court of Chancery in the exercise of its jurisdiction over charitable trusts shall appoint and direct.

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22 VICT. CAP. 27.

An Act to facilitate Grants of Land to be made near populous Places for the Use of regulated Recreation of Adults, and as Playgrounds for Children.

[19*th April*, 1859.]

WHEREAS the want of open public grounds for the resort and recreation of adults, and of playgrounds for children and youth, is much felt in the metropolis and other populous places within this realm, and by reason of the great and continuous increase of the population and extension of towns such evil is seriously increasing, and it is desirable to provide a remedy for the same: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Lands may be conveyed to trustees to be held by them as public grounds, &c.

I. Any lands may be lawfully conveyed to trustees, to be held by them as open public grounds for the resort and recreation of adults, and as playgrounds for children and youth, or either of such purposes, and for any estate, and subject to any reservation, restrictions, and conditions which the donor or grantor may think fit: but this enactment shall not extend to authorize any lands to be so conveyed for any greater estate or interest than the

donor or grantor would, independently of this Act, have power to dispose of.

Form of conveyance.

II. Any such conveyance of land to trustees may be in the following form, subject to any modification thereof which the case may require:—

"I A. B. do hereby convey and grant to —— as trustees for public ground for the parish [*or* parishes] of —— [*here describe the lands conveyed or granted*], to be held by them as public ground for the purposes of 'The Recreation Grounds Act, 1859.'"

And it is hereby enacted, that the grant or conveyance of such lands shall not require enrolment, nor to be by indenture, and shall be valid, although the donor or grantor shall die within twelve calendar months after the making of such grant, any of the provisions of the Act passed in the ninth year of the reign of King George the Second, chapter thirty-six, to the contrary notwithstanding.

How grants of lands belonging to municipal corporations may be made.

III. With respect to lands belonging to any municipal corporation, such grant may be lawfully made by the body corporate, with the consent of the commissioners of Her Majesty's Treasury, signified by their executing the deed of conveyance.

How grants of lands belonging to parishes may be made.

IV. With respect to lands belonging to any parish, such grant may and shall be made by the trustees or feoffees (if there shall be such), or otherwise by the churchwardens and overseers of the parish, in pursuance of a resolution for that purpose of the vestry or other body having the management of the affairs of such parish, passed in meeting duly assembled for the purpose, and with the approbation of the poor law board, to be testified by their seal being affixed to the deed of conveyance.

Appointment of trustees.

V. With respect to the appointment of trustees for holding any such grounds for the purpose aforesaid, the

lord of any manor, or the churchwardens of any parish, or the overseers of the poor of any parish or township, or all or any of such persons to whom lands shall have been conveyed as aforesaid, shall be a body corporate for taking, holding, and disposing of such grounds, and instituting, maintaining, and defending any proceedings relating thereto; but the management and direction of the same shall be and remain in such persons as may be named in the deed of conveyance thereof; and in case no such persons shall be so named, or there shall be a failure of such managers and directors, the charity commissioners for England and Wales shall have power to settle a scheme for the appointment of the managers and directors.

Managers and directors may make and enforce bye-laws and regulations, subject to the approval of said commissioners.

VI. The managers and directors may from time to time make and enforce any such byelaws, orders, and regulations for the management, preservation, disposition, and care of the said grounds, and the government of all persons using or frequenting the same, as shall be approved by the said commissioners and in accordance with the conditions of the grant; and no byelaws, orders, or regulations in any manner restricting the public use or enjoyment of the said grounds shall be valid unless sanctioned with such approbation.

Personal property may be bequeathed for purposes of grounds.

VII. It shall be lawful for any person to bequeath any personal property, not exceeding one thousand pounds in amount, for the purpose of defraying the expences of purchasing, preparing, maintaining, and preserving such grounds for the purposes aforesaid, and ornamenting the same.

Extent of Act, and short title.

VIII. This Act shall extend to England and Ireland only, and may be cited for all purposes by the title of "The Recreation Grounds Act, 1859."

21 & 22 VICT. CAP. 71.

An Act to substitute in certain Cases the Bishop of one Diocese for the Bishop of another as a Trustee of certain Trusts.

[*2nd August*, 1858.]

WHEREAS it frequently happens that the bishop of a diocese is a trustee of real or personal estate for charitable or other public purposes, or is invested with powers in relation to charities and public trusts within his diocese: and whereas, in consequence of the altered limits of dioceses in England it is expedient to make new provisions for such cases: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:—

Charity commissioners may make order enabling bishop of one diocese to act for another, as to certain trusts, &c.

I. In all cases in which the bishop of a diocese is as such bishop, alone or jointly with any other person or persons, trustee of or invested with any power of nomination or control or other power in relation to any charitable foundation or other trust for public purposes within, or in favour of the clergy, parishioners, or other persons or objects of or belonging to, any place which at the time when such bishop or his predecessor was first invested with such trust or power was within that diocese, or concerning any church or chapel in any such place, and by reason of an alteration of the limits of the diocese such place is transferred to and included in some other diocese, it shall be lawful for the charity commissioners for England and Wales, if it appear to them that such trust or power was first so vested in the bishop or his predecessor by reason of the place being then within his diocese, and may be conveniently vested in the bishop in

whose diocese such place is included, to make an order under their seal substituting from the date thereof for the first-mentioned bishop the bishop of the diocese in which such place is included, and such order shall operate to vest in such lastly-mentioned bishop, either solely or jointly with any other person or persons, as the case may require, all estate, property, stock, funds, monies, securities, rights, titles, patronage, and authority in relation to the charity or trust, as fully and effectually as if he had been originally appointed to have and exercise the same.

Order to be made on the application of the bishops or of one of them.

II. Provided, that every order to be made under this Act shall be made upon the application of the bishops concerned in such order, or one of them; and no such order shall be made in relation to any advowson or right of patronage or presentation, part of the possessions of a see, which might be exchanged or otherwise disposed of by scheme of the ecclesiastical commissioners confirmed by Her Majesty in council; nor shall any such order under this Act be made in relation to any ecclesiastical patronage or power of nomination or appointment of any curate, chaplain, or spiritual person under any trust without the consent of the ecclesiastical commissioners under their common seal.

How costs are to be defrayed.

III. Any costs necessarily incident to effecting the aforesaid transfers shall be defrayed by order of the said charity commissioners out of the property, real or personal, as the said charity commissioners may direct, which shall be transferred as aforesaid.

Nothing to affect trusts, &c. within the universities, and colleges of Eton, Winchester, and Westminster.

IV. Provided always, that nothing herein contained shall be construed to extend to or in any way affect trusts of a visitorial or any other nature or character exercised in or over any college, hall, or school within the precincts or under the jurisdiction or government of either of the Universities of Oxford or Cambridge, or in or over the

colleges or schools of Saint Mary at Eton, Saint Mary at Winchester, and Saint Peter at Westminster.

Nothing to affect certain endowments, &c.

V. Provided also, that nothing in this Act contained shall be construed to extend to endowments of an eleemosynary or any other character, whose foundation trusts are or may be governed by any specific Act of parliament.

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24 & 25 VICT. CAP. 96.

An Act to consolidate and amend the Statute Law of England and Ireland relating to Larceny and other similar Offences.

[*6th August*, 1861.]

WHEREAS it is expedient to consolidate and amend the statute law of England and Ireland relating to larceny and other similar offences: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:—

Interpretation of terms:

1. In the interpretation of this Act:

"document of title to goods:"

The term "document of title to goods" shall include any bill of lading, India warrant, dock warrant, warehouse keeper's certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought and sold note, or any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by indorsement or by delivery, the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to:

"document of title to lands:"

The term "document of title to lands" shall include

any deed, map, paper, or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or any part of the title, to any real estate, or to any interest in or out of any real estate:

"trustee:" The term "trustee" shall mean a trustee on some express trust created by some deed, will, or instrument in writing, and shall include the heir, or personal representative, of any such trustee, and any other person upon or to whom the duty of such trust shall have devolved or come, and also an executor and administrator, and an official manager, assignee, liquidator, or other like officer acting under any present or future Act relating to joint stock companies, bankruptcy, or insolvency:

"valuable security:" The term "valuable security" shall include any order, exchequer acquittance, or other security whatsoever entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of the United Kingdom, or of Great Britain or of Ireland, or of any foreign state, or in any fund of any body corporate, company, or society, whether within the United Kingdom or in any foreign state or country, or to any deposit in any bank, and shall also include any debenture, deed, bond, bill, note, warrant, order, or other security whatsoever for money or for payment of money, whether of the United Kingdom, or of Great Britain, or of Ireland, or of any foreign state, and any document of title to lands or goods as herein-before defined:

"property:" The term "property" shall include every description of real and personal property, money, debts, and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods, and shall also include, not only such property as shall have been originally in the possession or

under the control of any party, but also any property into or for which the same may have been converted or exchanged, and any thing acquired by such conversion or exchange, whether immediately or otherwise:

"night." For the purposes of this Act, the night shall be deemed to commence at nine of the clock in the evening of each day, and to conclude at six of the clock in the morning of the next succeeding day.

Trustees fraudulently disposing of property, guilty of a misdemeanor.

LXXX. Whosoever, being a trustee of any property for the use or benefit, either wholly or partially, of some other person, or for any public or charitable purpose, shall, with intent to defraud, convert or appropriate the same or any part thereof to or for his own use or benefit, or the use or benefit of any person other than such person as aforesaid, or for any purpose other than such public or charitable purpose as aforesaid, or otherwise dispose of or destroy such property or any part thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments which the court may award as herein-before last mentioned: provided, that no proceeding or prosecution for any offence included in this section shall be commenced without the sanction of Her Majesty's Attorney-General, or, in case that office be vacant, of Her Majesty's Solicitor-General: provided also, that where any civil proceeding shall have been taken against any person to whom the provisions of this section may apply, no person who shall have taken such civil proceeding shall commence any prosecution under this section without the sanction of the court or judge before whom such civil proceeding shall have been had or shall be pending.

No prosecution shall be commenced without the sanction of some judge or the attorney-general.

No remedy at law or in equity shall be affected.

LXXXVI. Nothing in any of the last eleven preceding sections of this Act contained, nor any proceeding, conviction, or judgment to be had or taken thereon against any person under any of the said sections, shall prevent,

lessen, or impeach any remedy at law or in equity which any party aggrieved by any offence against any of the said sections might have had if this Act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and nothing in the said sections contained shall affect or prejudice any agreement entered into or security given by any trustee, having for its object the restoration or repayment of any trust property misappropriated.

Convictions shall not be received in evidence in civil suits.

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30 & 31 VICT. CAP. 132.

An Act to remove Doubts as to the Power of Trustees, Executors, and Administrators to invest Trust Funds in certain Securities, and to declare and amend the Law relating to such Investments.

[20*th August*, 1867.]

WHEREAS by an Act passed in the session holden in the twenty-second and twenty-third years of Her present Majesty, chapter thirty-five, "to further amend the Law of Property, and to relieve Trustees," it is enacted, that "when a trustee, executor, or administrator shall not by some instruments creating his trust be expressly forbidden to invest any trust fund on real securities in any part of the United Kingdom, or on the stock of the Bank of England or Ireland, or on East India stock, it shall be lawful for such trustee, executor, or administrator to invest such trust fund on such securities or stock, and he shall not be liable on that account as for a breach of trust, provided that such investment shall in other respects be reasonable and proper:"

22 & 23 Vict. c. 35.

And whereas doubts have arisen as to the legal effect and signification of the words "East India Stock" in the said Act mentioned:

Be it therefore enacted and declared by the Queen's

most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Application of term "East India stock" in recited Act.

I. The words "East India Stock" in the said Act passed in the session holden in the twenty-second and twenty-third years of her Majesty, chapter thirty-five, shall include and express as well the East India stock which existed previously to the thirteenth day of August one thousand eight hundred and fifty-nine, when the said Act received the assent of Her Majesty, as East India stock charged on the revenues of India, and created under and by virtue of any Act or Acts of parliament which received Her Majesty's assent on or after the thirteenth day of August one thousand eight hundred and fifty-nine; and it shall be lawful for every trustee, executor, or administrator to invest any trust fund in his possession or under his control in the stock created by the last-mentioned Act or Acts to the same extent, and for the same purposes and objects, as he can now invest such trust fund in the East India stock which existed previously to the thirteeeth day of August one thousand eight hundred and fifty-nine.

Trustees may invest in any securities interest whereon is guaranteed by parliament.

II. It shall be lawful for every trustee, executor, or administrator to invest any trust fund in his possession or under his control in any securities the interest of which is or shall be guaranteed by parliament to the same extent and in the same manner as he may invest such trust fund in such securities as aforesaid.

TABLE OF SCHEMES OF CHARITY COMMISSIONERS CONFIRMED BY PARLIAMENT.

Bath—St. Mary Magdalen Hospital at	19 & 20 Vict. c. 45.
Bristol—Municipal Charities in	21 & 22 Vict. c. 30.
Bristol—Charities in Parishes of St. Nicholas and St. Leonard	21 & 22 Vict. c. 31.
Burford Charities, Oxon	24 & 25 Vict. c. 22.
Coggeshall—*see* Framlingham.	
Coventry Grammar School	27 & 28 Vict. c. 41.
Debenham—*see* Framlingham.	
Dulwich College	20 & 21 Vict. c. 84.
Etwall—Sir John Port's Hospital in, and School in Repton, Derbyshire	30 & 31 Vict. c. 99.
Folkestone—Harvey's Charity in	21 & 22 Vict. c. 29.
Framlingham, Debenham, and Levington, Suffolk; and Coggeshall, Essex—Hitcham's Charity.	26 & 27 Vict. c. 58.
Guildford—Trinity Hospital	24 & 25 Vict. c. 32.
Levington—*see* Framlingham.	
Moulton—Endowed School at	19 & 20 Vict. c. 53.
Nottingham—White's Charity, &c. in	22 Vict. c. 18.
Reading Municipal Charities	24 & 25 Vict. c. 23.
Repton—*see* Etwall	
Ruthin Charities	26 & 27 Vict. c. 59.
Stoke Poges Hospital	19 & 20 Vict. c. 111.
Swineshead—Cowley's Charity	21 & 22 Vict. c. 81.
Temple Balsall—Leveson's Hospital	24 & 25 Vict. c. 24.
Westminster, St. Martin-in-the-Fields—Tenison's Library and School	23 & 24 Vict. c. 43.

MINUTES

OF THE

BOARD OF CHARITY COMMISSIONERS FOR ENGLAND AND WALES.

MINUTES made by the BOARD OF CHARITY COMMISSIONERS FOR ENGLAND AND WALES on the 20th day of November, 1860, relative to the institution and conduct of their proceedings under the jurisdiction created by the Charitable Trusts Act, 1860.

1. Every application to the board for an order under the above mentioned jurisdiction shall be made in writing, signed by the applicants or by their authorized solicitor or agent (*a*) (in that declared character); and every such application not made by Her Majesty's attorney-general shall show that the applicants are competent to apply to the board under the Act as

Trustees or persons administering or claiming to administer the charity the subject of the application;

Or persons interested in the benefits of the charity;

Or two or more inhabitants of some parish or place within which the charity shall be administered or applicable.

2. Every application shall be intituled, in the matter of the charity to which it shall relate, by its usual name or designation, and shall state as far as conveniently may be—

The parish or locality for which (if of a local character) it is founded or within which it is administered or applicable;

The endowments of the charity;

The objects of its foundation;

The amount of its annual or ordinary income;

(*a*) Since the above minutes were issued, the board have decided that all applications to them under the jurisdiction created by the "Charitable Trusts Act, 1860," in respect of charities whose annual income exceeds 50*l*., shall be signed by the trustees themselves, and not by a solicitor or agent on their behalf.

The actual application of such income ;

The names and personal descriptions and residences of the trustees or actual administrators of the charity ;

And all other circumstauces material to the specific purposes of the application.

3. If the application shall not be made by all the trustees or actual administrators of the charity, it shall state whether those who are not parties to it are assentiug to or dissenting from its objects.

4. Every application for the appointment of trustees, or for the establishment of a scheme for the administration of any charity, shall be made in general terms for those objects, but may be accompanied by any proposal or recommendation as to the particular trustees or scheme to be respectively appointed or established.

5. The form No. 1 in the subjoined schedule (*b*) shall be followed as nearly as conveniently may be for the purposes of all applications to the board under the said jurisdiction.

6. The board may require any application to be explained, amended, or altered in such manner and so often as they may think fit, and all or any of the statements on which it shall be founded, or any other circumstances material to its purposes, to be established by the applicants by sufficient evidences.

7. Notice in writing of every application to the board stating its objects shall be given by the applicants to all trustees or administrators of the charity not parties to the application, and when and as directed by the board, to Her Majesty's attorney-general, and to all persons to whom in respect of any personal rights or interests liable to be affected by the order to be thereupon made, or for any other reason, the board shall think fit that such notice shall be given.

Such notice may be in the form No. 2 in the subjoined schedule (*b*).

Similar notice shall also be published by the applicants for the general information of all persons interested in the matter in all cases in which the board shall consider it desirable, and shall direct that such publication shall be made.

Such last-mentioned notice may be given in the form No. 3 in the subjoined schedule (*b*).

The board will not proceed in the matter of the application until they shall have been satisfied that every such notice directed by them to be given shall have been given accordingly.

(*b*) The forms referred to in these minutes are not material to the present publication, but may be purchased of the publisher.

8. The public notice required by the sixth section of the Act of every order proposed to be made by the board appointing or removing a trustee or establishing a scheme (if relating to any parochial charity) shall (unless otherwise directed by the board in any special case) be given in writing, to be affixed for fifteen days at least to or near some principal door of the church of the parish or district, or of each parish or district (if more than one), in which the charity shall be administered or applicable, and shall state that any objections to or suggestions on the proposed order may be made or transmitted to the board in writing within twenty one days from the date of such notice.

Such notice may be in the form No. 4 in the subjoined schedule (*c*).

9. All objections to any order proposed to be made by the board, and all suggestions thereon, shall be made and transmitted to the commissioners in the first instance, in writing, but the board, so far as the justice of any special cases shall in their judgment require, as well as in the cases provided for by the Act, will at the request of the parties, or at their own discretion, require such objections or suggestions, or the matter of the application, to be heard, in such manner as they shall direct, before themselves or one or more of the members of their board, or an inspector to be deputed by them for the purpose.

10. The board shall be at liberty to proceed in the matter of any application, and to make any order thereon, notwithstanding that these minutes shall not have been fully complied with by the applicants or others, in any cases in which they shall be satisfied that such incomplete compliance is immaterial to the justice of the case.

11. These minutes or any of them may be revoked, amended, or added to by the board so often and in such manner as they may think fit.

(*c*) See note, p. 305.

PART III.

NOTES OF CASES.

PRECEDENTS.

NOTES OF CASES.

ADVOWSON.

Sale of.—*See* SCHOOLS.

APPEAL.

Time for.—The time for appealing from orders of the Charity Commissioners under 23 & 24 Vict. c. 136, s. 8, begins to run from the time of their final publication. *Hackney Charities, In re,* 10 Jur. N. S. 941; 12 W. R. 1129; 11 L. T. N. S. 34, R.

Where no appeal.—Where the income of a charity is under 50*l.* two inhabitants of the parish cannot, under 23 & 24 Vict. c. 136, s. 8, appeal to the Court against an order of the Charity Commissioners appointing new trustees. *Hackney Charities, In re,* 11 Jur. N. S. 126; 34 L. J. Chanc. 169; 13 W. R. 398; 11 L. T. N. S. 758; L. J.

APPORTIONMENT.

Charity for church.—A charity given for the maintenance and support of a parish church is not apportionable between the church of the original parish and that of a district subsequently carved out of it. A new church substituted for the original church is equally entitled to the exclusive benefit of the charity. *Attorney-General* v. *Love,* 3 Jur. N. S. 948; 26 L. J. Chanc. 539; 23 Beav. 499, R.

Distributive charities.—Certain distributive charities which were vested in separate trustees, but subject to the administration of the incumbent, churchwardens, and parishioners of the whole parish in vestry assembled, were held to be apportionable under 8 & 9 Vict. c. 70, between the several ecclesiastical districts into which the parish was divided. *Brompton, (the Incumbent of) Exparte,* 5 De G. & S. 626; 22 L. J. Chanc. 281.

Prison chaplain.—An annuity of 60*l.* was given to a Church of England clergyman, to preach every Sunday to the prisoners at Lincoln, and pray daily with them. The county gaol was then the only prison, but afterwards the city gaol was built. Both prisons had

chaplains whose salaries were fixed by the justices and paid out of the county rates. The Court ordered the annuity to be divided in proportion to the number of prisoners. *Hussey, In re*, 7 Jur. N. S. 325; 23 L. J. Chanc. 491; 9 W. R. 365, R.

CAPITAL.

Outlay of.—The Court in authorizing the application of capital for a special purpose usually requires it to be replaced out of income; but where the object was the support of an incumbent, subject only to small charges for repairs, &c., the Court on petition of the incumbent and trustees, authorized the expenditure of 1000*l.* towards repairing and enlarging a chapel without requiring it to be recouped. *Willenhall Chapel Estates, In re*, 2 Drew. & Sm. 467; 13 L. T. N. S. 354.

CERTIFICATE OF CHARITY COMMISSIONERS. SUIT OR PENDING PROCEEDING.

Certificate.—The Court will not entertain an application in a charity matter, although of an urgent nature, without the previous sanction of the Charity Commissioners; there being no reason why such sanction might not have been obtained. It is not required that the commissioners should approve of the application being granted, but only that they should sanction its being made. *Watford Burial Board, Exparte*, 2 Jur. N. S. 1045, W.

Pending proceeding.—A matter pending (within the Charitable Trusts Act) means a continuation of something already directed by the Court; not a matter totally new. *Ford's Charity, In re*, 3 Drew. 324.

Petition. Pending suit.—Where proceedings had been suspended in an information, the suit continues pending, so as to render it unnecessary to intitle a petition in Sir R. Romilly's Act, or to obtain the Attorney-General's fiat. *Attorney-General* v. *Cooper*, 10 W. R. 31; 8 Jur. N. S. 50.; 7 L. T. N. S. 149, V.-C. K.

Pending suit.—An order made as to a charity on which it was not necessary to go again to the Court, is not a suit or matter pending so as to dispense with the certificate of the Charity Commissioners on another application. *Jarvis, In re*, 5 Jur. N. S. 724; 7 W. R. 606, V.-C. K.

Railway. Money in court.—No certificate of the Charity Commissioners under the 17th section of the Charitable Trusts Act 1853, is necessary for enabling parties to apply to the Court for the disposal of money paid in by a railway company on the purchase of charity lands. *Lister's Hospital, In re*, 6 De G. Mac. & G. 184.

Pending proceeding.—Where monies have been paid into court

under the Trustee Relief Act (10 & 11 Vict. c. 96) a petition praying for a scheme does not require the sanction of the Charity Commissioners. *St. Giles and St. George, Bloomsbury, In re*; *St. Giles Volunteer Corps, In re*, 4 Jur. N. S. 297; 27 L. J. Chanc. 560; 25 Beav. 313, R.

Where part of a charity estate belonged to a school and the residue to purposes connected with a college, the sanction of the Charity Commissioners is not required to an application to the Court for purposes connected with the college. *Meyrick's Charity, In re*, 1 Jur. N. S. 438; 24 L. J. Chanc. 669, V.-C. K.

A private charity act, passed shortly before the Charitable Trusts Act 1853, authorizing trustees, in matters in which they were to act with the approbation of the Court, to lay proposals at once before a judge at chambers, was held not to be repealed by the 17th section of the latter Act, but that a preliminary application to the commissioners was necessary. *Bingley Free School, In re*, 2 Drew. 283; 18 Jur. 668; 22 L. J. Chanc. 672.

CHAPEL.

A bequest towards the reduction of a debt on a chapel held payable to the trustees, though the debt had been paid off, and the only debt since incurred was one owing by the trustees in respect of the chapel upon their personal responsibility. *Bunting* v. *Marriott*, 19 Beav. 163.

Change of tenets.—The surviving trustee and congregation of a chapel founded for religious worship by the society of Protestant dissenters called Independents, subsequently changed the nature of their worship into that of the "Particular Baptists:" Held that the use of the chapel must be restored to those professing the original doctrines, the trustee removed and new trustees appointed. *Attorney-General* v. *Aust*, 13 L. T. N. S. 235, V.-C. K.

A chapel was vested in trustees for Particular Baptists; a part of the congregation having seceded, the surviving trustees were induced to appoint new trustees favourable to the seceding congregation. The new trustees then brought an action to obtain possession of the chapel; but the Court set aside the appointment, restrained the action, and ordered a new appointment to be made. *Newsome* v. *Flowers*, 10 W. R. 26; 30 Beav. 461, R.

General bequest.—A legacy to a minister or ministers of an Unitarian chapel, at the time of the testator's death, to be applied as he or they should think fit towards the support of Unitarians: Held good, and payable to the ministers as directed, and that a scheme was unnecessary. *Barnett, In re*, 29 L. J. Chanc. 871, R.

Ministers' house.—A trust deed provided that the minister of a chapel was to be allowed to occupy a house, part of the property; but in case he did not occupy it, the trustees were authorized to let it, and apply the rents to pay off a mortgage. The trustees, without offering the house to the minister, demised it to another person. The Court set aside the lease, and ordered possession to be given to the minister. *Ward* v. *Hipwell*, 3 Giff. 547; 8 Jur. 666.

Modification of trusts.—The trustees of a charitable foundation for the purpose of religious worship, intended to form a branch of a certain association, executed deeds soon after the time of the endowment, declaring trusts defective in their provisions and inconsistent with the general government of the associated body. Subsequently the Court rectified the trusts, so that the foundation might remain connected with, and form part of, the general body. *Attorney-General* v. *Clapham*, 10 Hare, 540; 23 L. J. Chanc. 70.

Trustees, removal of.—Fourteen trustees of a charity were originally appointed, but some having died, some gone abroad, and some declined to act, the acting trustees became reduced to two. The legal estate being in the acting trustees, and in those who had gone abroad, and in those who refused to act, twelve new trustees were, in pursuance of a power reserved in the deed of foundation, elected. The Charity Commissioners authorized a summons to be taken out in the matter in chambers, and an order was made removing the trustees who were abroad, and those who had refused to act, and confirming the appointment of the newly elected trustees and vesting the legal estate. *Lincoln Primitive Methodist Chapel, In re*, 1 Jur. N. S. 1011, V.-C. S.

CHARITY.

Application of income.—A subscription out of the funds of a charity (created for the benefit of a trade or guild, and its common charges, and the support of the poor and decayed brethren thereof) towards the building of an institution for the gratuitous board and education of boys (the charity in consideration of such subscription having a perpetual right of admission for three boys) is not a misapplication of the funds. A benefit to the children of some, is a benefit to the whole brethren. *Anderson* v. *Wrights of Glasgow*, 12 L. T. N. S. 805, H. L.

Where property is given for charitable purposes not exhausting the whole income, the *primâ facie* intention is to benefit the donee; but the case is varied where the donee is a trading corporation. *Attorney-General* v. *Cambridge* (*Trinity College*) 24 Beav. 383.

Where property is for the repair of a chapel and the surplus for the poor, the trustees will not be ordered to rebuild, although the

chapel is very dilapidated, and unequal to the wants of the inhabitants, and the income has greatly increased. *Booth, In re,* 14 W. R. 761, V.-C. W.

Increased income.—Provision was made for six almswomen and for other charitable objects, and the residue was given to the almswomeu. The income greatly increased: Held that the almswomen were not entitled to the surplus income, as the effect would be to defeat the intention by making them cease to be almswomen: Held also, that the other objects were not entitled, but that it was applicable to charity generally, and that the foundation of a school was a proper object. *Ashton's Charity, In re,* 5 Jur. N. S. 665; 7 W. R. 659; 33 L. T. 195; 27 Beav. 115, R.

Where all the rents are apportioned so as to exhaust them among charitable objects, any increase must be applied to the same purposes. *Beverley (Mayor)* v. *Attorney-General,* 6 H. L. Cas. 310; 3 Jur. N. S. 871; 27 L. J. Chanc. 66, H. L.

Lands were given to A. to make certain payments to charities, the overplus was spoken of but not specifically bequeathed: Held that A. was entitled, after making the specific payments, to take the increased rents. *Ibid.*

An estate was given to a corporation to pay certain sums which left a residue of 7*l.* a year; there was no specific bequest of this sum, but referring to charges then requisite for maintaining the army, the testator directed that what the mayor could not spare out of the overplus, should be deducted out of the payments to some of the charitable objects. The payments to the army ceased, and the iucome increased: Held, reversing decree of the courts below (6 De G. Mac. & G. 256; 1 Jur. N. S. 763; 24 L. J. Chanc. 374; 15 Beav. 540), that the increase belonged to the corporation. *Ibid.*

Lands of a specified value were granted to the Dean and Canons of Windsor, to pay certain specified charges for charitable purposes, and the residue for the relief of other parties: Held (affirming decision of M. R. 24 Beav. 679; 4 Jur. N. S. 818; 27 L. J. Chanc. 320,) that the increased rents belonged to the donees. *Attorney-General* v. *Windsor (Dean and Canons),* 6 Jur. N. S. 833; 8 W. R. 477; 2 L. T. N. S. 578; 8 H. L. Cas. 369; 30 L. J. Chanc. 529.

Where the whole rents are apportioned to charities, the charities, subject to the interference of the Court in special cases, should share the improved as well as original rents. *Ibid.*

Where lands are given to a body, itself an object of charity, subject to specific payments to other objects of charity, such other objects can claim nothing beyond the specific charges. *Ibid.*

By will in 1712, realty and personalty were given upon trusts for the benefit of Jesus College, Oxford. By codicil, the testator, after founding a school at Bala, gave 15*l.* yearly, between 30 scholars for clothing, 15*l.* yearly to the schoolmaster, and so much as should be necessary yearly for the repair of the school-house and premises "there being 4*l.* 17*s.* of the present rents above 108*l.* given by the will to scholars and exhibitions in 'Jesus College' and above the 15*l.* for the scholars and 15*l.* for the master at Bala; but the school-house, &c. being of the yearly rent of 3*l.* 12*s.*, the remainder of the 4*l.* 17*s.*, namely, 1*l.* 5*s.* per annum, is for the yearly repairs of the school-house and premises for ever." The estates having increased in value, an information was filed to determine the application of the surplus: Held that Bala School was entitled only to such proportion of the surplus as 4*l.* 17*s.* bore to the original rent, and that it was applicable first to payment of the rent of the school-house and then for the benefit of the school. *Attorney-General* v. *Jesus College, Oxford,* 29 Beav. 163; 7 Jur. N. S. 592; 30 L. J. Chanc. 675; 9 W. R. 449; 4 L. T. N. S. 728.

Surplus.—The question whether a gift of "surplus" or "residue" means surplus or residue properly so called, or a mere proportional share of a particular fund, must be determined by the particular words of each will. Where after the gift of a fund charged with certain payments the words were "and the overplus which the said——&c., do now produce, more than all these disbursements do amount to (which I do find and compute to be about 60*l.* per annum)" they were held to mean surplus and not proportional share. *South Molton (Mayor, &c. of)* v. *Attorney-General,* 5 H. L. Cas. 1; 18 Jur. 435; 23 L. J. Chanc. 567.

Endowment.—Voluntary contributions to a charitable society invested upon permanent security or in land is not an "endowment" within 16 & 17 Vict. c. 137, s. 62, and the consent of the Charity Commissioners is not necessary to the sale of land so acquired. *Corporation of the Sons of the Clergy* v. *Sutton,* 6 Jur. N. S. 84; 29 L. J. Chanc. 393; 27 Beav. 651, R.

The word "endowment" has reference to property held subject to some special or particular purpose or trust. *Ibid.*

Not within Charitable Trusts Acts.—A legacy given generally to an unendowed charitable institution supported in part by voluntary contributions is not within the Charitable Trusts Act 1853. *Wilson, In re,* 19 Beav. 394.

Jurisdiction of Charity Commissioners. Exempted charities.—The commissioners cannot admit an exempted charity to the benefits of

the Charitable Trusts Acts upon a petition presented under 16 & 17 Vict. c. 137, s. 63, by an unduly constituted governing body. *Hamilton* v. *Spottiswoode*, 36 L. J. Chanc. 51; 15 W. R. 118, R.

The authority of the Charity Commissioners extends to charities founded and endowed in England or Wales, although the revenues are applied abroad.

And *semble* their authority also extends to charities which are founded and endowed abroad, if their revenues are applied in England or Wales. *In Re Duncan: In Re Taylor's Trusts*, 2 L. R. Chanc. 357.

Animals.—A bequest for founding, establishing, and upholding an institution for the study and cure of the maladies of useful animals is a good charitable object. *University of London* v. *Yarrow*, 1 De G. & J. 72; 3 Jur. N. S. 421; 26 L. J. Chanc. 430.

Education.—Gift for the advancement of education all over the world held to be valid. *Whicker* v. *Hume*, 4 Jur. N. S. 933; 28 L. J. Chanc. 396; 7 H. L. Cas. 124.

Emigration.—Bequest to Colonial Secretary and Commissioners of the Colonial Land and Emigration Board for the benefit of poor persons emigrating to certain colonies under the sanction of Government: Held a charity, and the Colonial Secretary having declined the trust, a scheme was directed. *Barclay* v. *Maskelyne*, 4 Jur. N. S. 1294. V.-C. W.

Local rates.—By a local act commissioners were authorized to levy rates for paving, lighting, watching, widening and improving streets in a town: Held that as the object was beneficial, not only to the inhabitants, but also to persons visiting the town, the purpose was public and charitable within 43 Eliz. c. 4. *Attorney-General* v. *Eastlake*, 11 Hare, 205.

It is not the source from which the funds are derived, but the purpose to which they are to be applied, that makes the charity. *Ibid.*

Poor rates.—Trusts, whether in aid of the poor rate and other parochial burdens, or for the benefit of the poor independent of the parish, are alike charitable. *Attorney-General* v. *Blizard*, 1 Jur. N. S. 1195; 25 L. J. Chanc. 171; 21 Beav. 233, R.

Poor.—A legacy to "twenty aged widows and spinsters" of a parish: Held good as a charity under 43 Eliz., and that the word "poor" was implied. *Thomson* v. *Corby*, 8 W. R. 267; 27 Beav. 649, R.

Resulting trust.—Land was granted upon trust to permit buildings to be erected thereon, and to suffer such land and buildings to be used and occupied as a pest house for such of the poor of certain

parishes as should at any time thereafter be visited with the plague, and for a burial-place for such of them as should die of such sickness, and for no other purpose whatsoever; and out of the rents to maintain and support the buildings in good and tenantable repair: Held that the land was wholly devoted to charitable purposes; that an immediate and continuing trust was created to keep the land and buildings in a fit state for the reception of the infected when the plague should arise; and that in the meantime there was no resulting trust in favour of the heirs of grantor. *Attorney-General* v. *Craven*, 21 Beav. 392; 2 Jur. N. S. 296; 22 L. J. Chanc. 291.

Sermon.—A bequest for the benefit of the vicar for the time being, on condition of preaching an anniversary sermon: Held to be a gift in augmentation of the living, and not a personal charity to the vicar. *Parker, In re*, 9 Jur. N. S. 884; 11 W. R. 937, R.

Publication of writings.—A bequest to publish the writings of a particular author is a good charity, if given out of pure personalty, and the writings are not immoral or irreligious; but it is void so far as it is out of real estate. *Thornton* v. *Howe*, 8 Jur. N. S. 663; 10 W. R. 642; 6 L. T. N. S. 525; 31 L. J. Chanc. 767; 31 Beav. 14, R.

An annuity to the wardens of a Jewish congregation, to be paid to three qualified persons to learn in their college and on every anniversary of his death to say a prayer called "Cawdish," which is a prayer in praise of God and resignation to his will: Held not void as a superstitious use. *Michel's Trust, In re*, 6 Jur. N. S. 573; 29 L. J. Chanc. 547; 8 W. R. 299, R.

Legacy to non-existing institution.—A bequest of personalty to eight charitable institutions, three of which had ceased to exist before the testator's death: Held that the shares could not be applied to similar institutions, but that the next of kin were entitled. *Langford* v. *Gowland*, 9 Jur. N. S. 12, V.-C. S.

Game laws.—Bequest of pure personalty to be applied in purchasing and procuring the discharge of persons who at the time of the testator's death or within five years should be committed to prison for non-payment of fines, &c., under the game laws held invalid. *Thrupp* v. *Collett*, 5 Jur. N. S. 111; 26 Beav. 126.

CHURCH BUILDING ACTS.

Chapel (private).—The trustee of a charity is not authorized by the Church Building Acts to convey to the commissioners the private chapel of a charitable foundation held by him as a trustee for the benefit of the charity. *Attorney-General* v. *Manchester (Bishop of)*,

3 L. R. Eq. 436. Such a conveyance was declared to be a breach of trust, and a reconveyance ordered, although the commissioners had caused the chapel to be consecrated as a parish church, and had caused the parson who was chaplain of the charity to be appointed the incumbent, as of a parish church, and caused a district to be assigned to it as a parish church under an Order in Council. *Ibid.* The acts of public functionaries who exceed the bounds of their authority by assuming a power over property which the law does not give them, whether they be a corporation or individuals, are treated as the acts of private persons dealing with property without legal authority. *Ibid.*

CHURCH.—*See* MORTMAIN.

COLLEGES.

Informations.—The exemption of colleges and halls in universities from the operation of 16 & 17 Vict. c. 137, sect. 62, does not extend to permit informations being filed against them without the certificate of the Charity Commissioners. *Attorney-General* v. *Sidney Sussex College, Cambridge*, 15 W. R. 162, C.

CYPRÈS.

Bequest of 1000*l.* for the use of the Protestant school of St. Peter's parish, and 1000*l.* to the school attached to the Episcopal chapel in B. street. The chapel had no school attached to it and was in St. Peter's parish. Held that the second 1000*l.* might be applied cyprès in favour of Protestant schools in St. Peter's, and a scheme was directed. *Daly* v. *Attorney-General*, 11 Ir. Chanc. Rep. 41, C.

DISSENTERS.

Admission to almshouses.—*See Attorney-General* v. *Calvert*, pp. 335 and 336.

GRAVES.—*See* TOMBS.

INVESTMENT.

The Court may, under 23 & 24 Vict. c. 38, sect. 10, and the general order of the 1st February, 1861, rule I., order the investment in consols of money paid into court under a private Act, although such private Act directs the investment to be in Exchequer bills. *Birmingham Blue Coat School, In re*, 1 L. R. Eq. 632.

LANDS CLAUSES ACT.

Re-investment.—The application of the purchase money of land taken by a railway company in redeeming land tax, is a re-investment within the Lands Clauses Act, and the costs are payable by the company under the 80th section. The land being part of a charity estate the petition must be sanctioned by the Charity Commissioners' certificate, and must be intituled in the matter of 52 Geo. 3, c. 101, must have the fiat of the Attorney-General, and be signed by two individual petitioners and not by a corporation and an individual. *London, Brighton, and South Coast Railway Company, In re,* 18 Beav. 608.

Railway company. Payment out of court.—The proceeds of the sale of charity lands taken by a railway company, cannot be paid out of court to the trustees of the charity without the consent of the Charity Commissioners when the trustees have no power of sale. *Faversham Charities, In re,* 10 W. R. 291; 5 L. T. N. S. 787, V.-C. W.

Where land, belonging to trustees of a charity, had been taken by a railway company under an Act with which the Lands Clauses Consolidation Act, 1845, was incorporated, and the purchase money paid into court, and the Court by a former order had directed the trustees to apply the money, so paid or to be paid, for the purpose of improving the supply of water to the town where the charity property was situated: Held that the costs of an application by the trustees for payment to them of the fund in Court, to be applied for that purpose, must be borne by the company, under section 80 of the said Act. *Lathropp's Charity, In re,* 1 L. R. Eq. 467.

The provisions of the 9th section of the Lands Clauses Act as to the purchase of land from persons under disability, must be strictly complied with. Therefore when a railway company agreed with a charitable corporation having no power to sell, except under the Lands Clauses Act, for the purchase of a piece of land, and no certificate had been obtained from two surveyors of the adequacy of the price, the Court, affirming the decision of the Master of the Rolls, refused to decree specific performance of the agreement. *Wycombe Railway Company* v. *Donnington Hospital,* L. R. Vol. 1, p. 268.

LAND TAX.

In 38 Geo. 3, c. 5, sect. 25 (rendered perpetual by 38 Geo. 3, c. 60, sect. 1) is contained an exemption from land tax of any hospital in respect of its site.

Commissioners appointed by the Crown to administer a fund

subscribed by the public for that purpose, founded in 1857, an asylum for the maintenance and education of 300 daughters of soldiers, sailors, and marines, dying in active service. The asylum was built and maintained entirely out of that fund, and solely for the benefit of the children, and was under the control of the commissioners: Held, first, that the asylum was not within the exemption of the Act, that exemption applying only to institutions and sites existing at the time when the tax was made perpetual.

Secondly, that it was not exempt as Crown property, such exemption depending not on the ownership, but the occupation by the Crown. *Lord Colchester and Others* v. *Kewney*, 2 L. R. Ex. 253.

LEASES.

Building leases.—The trustees of a charity were authorized to grant building leases for 600 years, such being the custom of the neighbourhood, and it appearing beneficial. *Cross, In re*, 27 Beav. 592.

Husbandry lease.—A husbandry lease of charity property for 99 years at a fixed rent, cannot stand. The onus of proving the fairness of a lease of charity property rests with the lessee. *Attorney-General* v. *Hall*, 16 Beav. 388.

Leases to kindred under true value.—Real estate was devised to two colleges for charitable purposes, and the testator directed the estate to be leased to his wife's kindred for ever, one-third under true value: Held that the direction to lease was void as a perpetuity, and that the colleges took discharged of it. *Attorney-General* v. *Greenhill*, 9 Jur. N. S. 1307; 33 L. J. Chanc. 208; 33 Beav. 193, R.

Renewal of beneficial leases.—A charity had been administered since 1716 under an award of the Court, whereby renewed leases were granted upon beneficial terms, but the Court in settling a new scheme directed the land to be let in future at rack-rent, regard being had to those lessees who had not had sufficient enjoyment to recompense the outlay made upon the faith of their leases being renewable. *Attorney-General* v. *St. John's Hospital (Bath)*, 1 L. R. Chanc. App. 92; 12 Jur. N. S. 127; 35 L. J. N. S. Chanc. 207; 14 W. R. 237; 13 L. T. N. S. 616, L. J.

LIMITATION.

The right of the Attorney-General to question the validity of an improvident lease after 20 years' enjoyment is barred by 3 & 4 Will. 4, c. 27. *St. Mary Magdalen, Oxford* v. *Attorney-General*, 6 H. L. Cas. 189; 3 Jur. N. S. 675; 26 L. J. Chanc. 620. See also *Attorney-General* v. *Payne*, 27 Beav. 168.

The decision in *Attorney-General* v. *Magdalen College* (6 H. L. Cas. 206) held (reversing decision, 19 Beav. 521) to govern a case where a lease for 500 years at a fixed rent had been granted, and the Statute of Limitations was held to bar a suit to set aside the lease. *Attorney-General* v. *Davey*, 4 De G. & J. 136.

MORTMAIN.

Where purposes partly legal and partly illegal.—Where funds are given to a charitable society some of the purposes of which are legal and others illegal within the Mortmain Act, it is not necessary for the trustees to apply the funds to all the charitable objects, but they may select any one or more of the legal objects and apply the whole funds to such objects exclusively. *Carter* v. *Green*, 3 Kay & J. 591; 26 L. J. Chanc. 845; 3 Jur. N. S. 905.

Where trust not declared.—Sums invested by a testatrix in stocks and in the savings bank had been partly collected and partly appropriated by her for building and endowing a church. The stock had been invested in the names of the testatrix and of another person. At the time of the decease of the testatrix no deed declaring the trusts of the money had been executed and no site for the intended church had been obtained: Held that the money and stock were at the death of the testatrix part of her personal estate, and that the liability of either to any charitable use was excluded by the Stat. 9 Geo. 2, c. 36. *Girdlestone* v. *Creed*, 10 Hare, 480.

Exception (under 48 Geo. 3, c. 108) to Stat. 9 Geo. 2, c. 36, in the case of a bequest of moneys to the extent of 500*l.* for building or endowing a church. *Ibid.*

Where trust not enforced in grantor's lifetime.—A rent-charge was granted by deed duly enrolled and otherwise legal on the face of it; but the grantor, who lived many years afterwards, kept the deed, and its terms were not enforced. There was evidence showing the intention of the grantor, and a trustee, that the deed was not to take effect until after the grantor's death, but no evidence of any specific agreement: Held that the deed was invalid. *Way* v. *East*, 2 Drew. 44.

Almshouse.—Secret trusts.—A testator bequeathed to trustees 60,000*l.* as an endowment for almshouses for twelve or more poor men and women, if any person should within twelve months after his decease purchase or give a suitable site, and he directed that no part of the fund should be applied towards the purchase of land. By his will he gave a piece of land in Newland to A., his heirs and assigns. A. being one of his trustees within twelve months after the testator's decease conveyed the land so devised to him to four trustees

upon trust to apply it to the purposes of the testator's will: Held (reversing the decision of Romilly, M. R. 21 Beav. 134; 1 Jur. N. S. 1102) that the bequest was not void within the provisions of 9 Geo. 2, c. 36, there being no evidence of a secret compact with A. as to the land. *Philpott* v. *St. George's Hospital*, 6 H. L. Cas. 338; 3 Jur. N. S. 1269; 22 L. J. Chanc. 70.

Almshouses.—A bequest for establishing, endowing, maintaining, or supporting almshouses, with a direction that the application thereof should be consistent with the laws in force: Held to be valid. *Dent* v. *Allcroft*, 8 Jur. N. S. 112; 31 L. J. Chanc. 211; 10 W. R. 184; 5 L. T. N. S. 705; 30 Beav. 335.

School.—A bequest for establishing, endowing, maintaining, continuing, and keeping up a school at S. "or otherwise for school purposes:" Held valid by reason of the alternative. *Ibid.*

Almshouse.—In the case of a bequest for establishing a hospital for twelve poor widows, to be carried into effect at the death of the testator's sisters or during their lives if they should think proper, it was held that the Court could not execute the trust without providing permanently a house for a hospital, and that the gift was therefore void. Where such a bequest is made the will should point to land already in mortmain as that to which the gift is intended to apply, in order to avoid the effect of the statute. *Dunn* v. *Bownas*, 1 Kay & J. 596.

Almshouse.—A testator devised 400*l.* to trustees to be invested on Government or real security, and the dividends to be applied for decayed persons in a certain town. The testator authorized the trustees to apply the capital and income for or towards establishing almshouses in that town, and added, "it is my wish that my said trustees do commence the building of such almshouses as soon as convenient after my decease:" Held that the bequest was void within the Statute of Mortmain. *Martin* v. *Wellsted*, 18 Jur. 941; 23 L. J. Chanc. 927, V.-C.W.

Asylum, lying-in.—Demise of a house to found a lying-in asylum void under 9 Geo. 2, c. 36. *Warren* v. *Rudall: Hall* v. *Warren*, 4 Kay & J. 603; 3 Jur. N. S. 822.

Apportionment of assets.—A testator bequeathed the residue of his real and personal estate to trustees upon trust for sale, and after payment of debts, to pay a charitable legacy. The pure personalty was insufficient for payment of debts and the mixed fund was ample: Held that the charitable legacy did not fail altogether, but that there should be an apportionment according to the value which the pure personalty bore to the mixed fund. *Briggs* v. *Chamberlain*, 18 Jur. 56; 22 L. J. Chanc. 635.

Apportionment of assets.—If charitable legacies are charged on a fund consisting of pure and impure personalty, the Court in fixing the proportion in which they are to fall will look at the condition of the testator's estate subject to the legacies at the time of his death, and not at the investments at the time fixed for the payment of the legacies. *Calvert* v. *Armitage*, 8 L. T. N. S. 269, V.-C. W.

Apportionment of assets.—Bequest of personalty for opening new schools, subscribing to existing schools, and purchasing land to be let to the poor at low rents: Held, that the division must be in moieties, and not in thirds; and that as to one moiety the bequest failed under 9 Geo. 2, c. 36. *Crafton* v. *Frith*, 4 De G. & S. 237; 15 Jur. 737; 22 L. J. Chanc. 198.

Chapel.—A bequest to the trustees of a particular chapel in C. to be applied towards the erection of a new chapel in C. held valid, where there was land duly vested in the trustees at the date of the will, on which a new chapel could be built in substitution for the old one. *Booth* v. *Carter*, 3 L. R. Eq. 757.

Bequest of money to aid in founding a chapel for the deaf and dumb held void under 9 Geo. 2, c. 36. *Hopkins* v. *Phillips*, 7 Jur. N. S. 1274; 30 L. J. Chanc. 671; 5 L. T. N. S. 700; 3 Giff. 182.

Churches.—Bequest of money to be laid out on land previously in mortmain, is good. *Fisher* v. *Brierley*, 6 Jur. N. S. 615; 29 L. J. Chanc. 477; 8 W. R. 485; 1 De G. F. & J. 643, L. J.

Land for church, parsonage and schools, granted by deed duly enrolled, held not void under 9 Geo. 2, c. 36, by reason of the land having remained undisturbed and the donor having used it, there being no evidence to show an agreement not to act on the deed during the donor's life. *Ibid.*

Confirmed on appeal, 10 H L. Cas. 159; 32 L. J. Chanc. 281; 11 W. R. 404; 8 L. T. N. S. 37; 9 Jur. N. S. 313.

Churches.—A bequest of pure personalty to the Incorporated Society for Promoting the Enlargement, Building and Repairing of Churches and Chapels is not within the Mortmain Act, the society having no power to purchase land. *Church Building Society* v. *Barlow*, 3 De G. Mac. & G. 120; 17 Jur. 217; 22 L. J. Chanc. 339.

Churches.—A. by will, executed more than three months before his death, devised freehold houses to trustees upon trust to sell and invest the proceeds in government securities, and to pay the dividends to testator's wife for life, and at her death to transfer the principal to the treasurer of the Society for Promoting the Enlargement, Building and Repairing of Churches and Chapels, to be applied to the uses and

purposes of that society. Held (affirming the decision of Sir W. P. Wood, V.-C.) not protected by the 43 Geo. 3, c. 108, either wholly, or to the extent of 500*l.*, but to be invalid under 9 Geo. 2, c. 36. *Church Building Society* v. *Coles*, 1 Jur. N. S. 761; 24 L. J. Chanc. 713; 5 De G. Mac. & G. 324.

Church.—A legacy for the enlargement of a parish church surrounded by its own churchyard is good, as it does not involve bringing additional land into mortmain. *Hawkins, In re*, 10 Jur. N. S. 922; 12 W. R. 945; 10 L. T. N. S. 557; 33 Beav. 570; 34 L. J. Chanc. 80.

Churches.—The testatrix directed her executors to apply such part of her residuary estate as by law might be legally applied to such purposes in the endowment of district churches or chapels in populous parishes, in order that the poor might have the Gospel preached to them; adding that she wished a preference to be given to the parishes of which the churches were under the patronage of certain trustees: Held, affirming the decision of V.-C. W. that the bequest created a trust for the endowment of churches and chapels already in existence, and also of churches and chapels thereafter to be built, whether upon sites already in mortmain, or which might thereafter be acquired and brought into mortmain; that the words "endowment of district churches or chapels" meant not an endowment by the purchase of land, nor an endowment by the building or repair of the fabric of churches or chapels, but by making a provision for persons connected therewith or officiating therein. *Edwards* v. *Hall*, 11 Hare, 1; 17 Jur. 593; 22 L. J. Chanc. 1078. Affirmed on appeal, 1 Jur. N. S. 1189, C; 6 De G. Mac. & G. 74.

School, almshouse, &c.—A bequest of a fund for building a school, almshouse, or other charitable institution, not expressing that it is to be erected on land already in mortmain, or not otherwise excluding the necessity of acquiring land for the purpose of carrying out the trust, is construed as in effect a direction to purchase land, and is void under the statute 9 Geo. 2, c. 36; but if it be not in any event necessary in the execution of the trust which the bequest attempts to create that land should be purchased and brought into mortmain, and the trustee has the option of performing the trust without that consequence, the bequest is not within the statute, and is valid. *Ibid.*

Shares.—Shares in an incorporated company are not an estate or interest in land within the meaning of the Statute of Mortmain. *Ibid.*

Arrears of rent.—Arrears of rent due to a testator at his decease are not within the restriction of the 9 Geo. 2, c. 36; but will pass under a bequest for charitable uses. *Ibid.* *Ware* v. *Cumberlege* over-ruled—See *Edwards* v. *Hall.*

Rent.—A legacy charged on land is an interest in land within the Statute of Mortmain, s. 3, and cannot while it remains unpaid be bequeathed for charitable uses by the legatee. *Brook* v. *Badley*, 4 L. R. Eq. 106.

A testatrix demised the minerals under certain lands in consideration of a surface rent, and of a sum of 5039*l.* 1*s.* 3*d.* to be paid by half-yearly instalments, at the rate of 750*l.* per acre for such part of the minerals as should be gotten by the lessees, until the whole sum was completely paid, with powers of distress and re-entry in default of payment. At the death of the testatrix one instalment was due and unpaid: Held, that it was in the nature of rent, and passed under a residuary bequest in favour of charities. *Ibid.*

Parsonage house.—A legacy to be applied in building a parsonage-house is not within the Mortmain Act, if there is glebe land belonging to the living upon which a house may be built. *Sewell* v. *Crewe-Read*, 3 L. R. 60.

Colonies, land in.—Act does not extend to land in the colonies. *Whicker* v. *Hume*, 4 Jur. N. S. 933; 28 L. J. Chanc. 396; 7 H. L. Cas. 124.

Growing crops.—Growing crops held to be savouring of realty, and within 9 Geo. 2, c. 36. *Symonds* v. *Marine Society*, 2 Giff. 325; 6 Jur. N. S. 910; 29 L. J. Chanc. 623; 8 W. R. 728.

Inrolment. Costs of re-investment.—The Commissioners of Sewers having purchased lands in mortmain, the proceeds were laid out by the charity in the purchase of other lands: Held that inrolment was necessary, and that the costs were payable by the commissioners as costs of re-investment. *Christ's Hospital, In re*, 12 W. R. 669; 10 L. T. N. S. 262, V.-C. W.

Inrolment.—A conveyance from one charity to another of land already in mortmain under deed duly enrolled, does not require inrolment under 9 Geo. 2, c. 36, s. 2. *Ashton* v. *Jones*, 6 Jur. N. S. 970; 8 W. R. 633; 28 Beav. 460, R.

Lease, where land subject to.—A conveyance to a charity of lands subject to a lease must include the interest of the lessor in the rents reserved as well as in the reversion. *Wickham* v. *Bath*, (*Marquis*), 11 Jur. N. S. 988; 35 L. J. Chanc. 5; 14 W. R. 21; 13 L. T. N. S. 313; 1 L. R. Eq. 17, R.

Minister.—Bequest to the officiating minister of a Roman Catholic chapel of the rent of land for seven years, the land then to be sold and the produce paid to the then minister of the chapel: Held void as to both gifts. *Thornber* v. *Wilson*, 4 Jur. N. S. 1268; 4 Drew. 350; 28 L. J. Chanc. 145, V.-C. K.

Monument.—A bequest to be laid out in a monument to testator's memory is not void within the Statute of Mortmain. *Trimmer* v. *Danby*, 2 Jur. N. S. 367; 25 L. J. Chanc. 424, V.-C. K.

Ornament of town.—A bequest to be applied in such manner and for such purposes as might be judged to be most for the benefit and ornament of a town is not void under 9 Geo. 2, c. 36. Although by the terms of such a gift the trustees have a discretion to apply its benefits either for purposes allowed or disallowed by law, the gift is not on that account void, the presumption being that they will act in a lawful manner. *Faversham* (*Mayor &c. of,*) v. *Ryder*, 18 Beav. 318; affirmed on appeal; 18 Jur. 587; 23 L. J. Chanc. 905; 5 De. G. Mac. & G. 350; L. J.

Poor-house.—Land conveyed to trustees for building a poor-house, not within 9 Geo. 2, c. 36. *Barnaby* v. *Bardsley*, 4 H. & N. 690; 28 L. J. Exch. 326.

Proceeds of land.—An interest in the proceeds of land directed to be sold is not within 9 Geo. 2, c. 36, even though unconverted by reason of a preceding tenant for life being still living. *Marsh* v. *Attorney-General*, 2 John. & H. 61; 7 Jur. N. S. 184; 9 W. R. 179; 3 L. T. N. S. 615.

Mortmain.—A. being entitled to moneys charged upon land, but primarily secured by bond and promissory notes, bequeathed all her property to her three daughters, B. C. and D., whom she appointed executrixes of her will. B. died in the lifetime of A., and C. died intestate shortly after A.'s death, and D. became sole executrix of A., and alone entitled to the said moneys. The moneys were not called in during the life of D., who by her will gave legacies to charities: Held, that as D. was alone entitled to the property, the Court would not assume in favour of the charities a conversion into pure personalty which she was not bound to make. *Shadbolt* v. *Thornton*, disapproved; *Lucas* v. *Jones*, 4 L. R. Eq. 73.

School.—Gift of stock "for the establishment of a charity school:" Held void. *In re Clancy*, 16 Beav. 295. But see the later decision in the case of *Hartshorne* v. *Nicholson*.

School.—Bequest of money to establish a school for poor children and to provide a schoolmaster: Held good. *Hartshorne* v. *Nicholson*, 4 Jur. N. S. 864; 27 L. J. Chanc. 810; 26 Beav. 58.

School.—A legacy of pure personalty for establishing a school, with a direction that the same was not to be employed in the purchase of land or in the erection of buildings, the expectation being that other persons would provide the land and buildings, is valid and not within

the Statute of Mortmain. *Cawood* v. *Thompson*, 17 Jur. 798; 22 L. J. Chanc. 835; 1 Sm. & G. 409, V.-C. S.

Public library, museum, &c.—A testator having directed the corporation to erect a small building as a repository for his furniture, books, manuscripts, &c., and to appoint a person to take care of the same, and to renew the lease thereof when necessary, gave the residue of his personal estate to such corporation, subject to certain legacies, in trust, to employ the income to promote the study and advancement of the sciences of natural history, &c., and classical and oriental literature, such as by forming a public library, botanic garden, observatory, and collection of objects in connection with such sciences; the garden and library to be kept on his leasehold premises: Held a valid bequest under 8 & 9 Vict. c. 43. *Harrison* v. *The Corporation of Southampton*, 2 Sm. & G. 387; 18 Jur. 669; 23 L. J. Chanc. 919.

School. Charitable endowment construction.—A testator bequeathed a fund to be at the disposal of his widow by her will, therewith to apply a part to the foundation of a charity school or such other charitable endowment for the benefit of the poor of a parish, as she might prefer, the remainder to be at her disposal among the testator's relatives as she might direct: Held that whatever might be the effect of the bequest "for the foundation of a charity school," a bequest for the foundation of a charitable endowment was not void under the Mortmain Act. That the words "to apply" and "to be at her disposal" created a trust, and that the bequest was not void for uncertainty by reason of the widow having died without exercising her power of determining the proportion in which the fund was to be applied. *Salusbury* v. *Denton*, 3 Kay & J. 529; 3 Jur. N. S. 740; 26 L. J. Chanc. 856.

School.—Devise of land for a school site followed by a bequest of 400*l.* to build a school-room, &c., the surplus (if any) for certain repairs: Held void under 9 Geo. 2, c. 36. *Cramp* v. *Playfoot*, 4 Kay & J. 479.

Secret trust.—A bequest, inteuded for a charitable purpose, is not bad if the trust is not legally declared in such a manner as, supposing the purpose were a legal one, would make it binding in a Court of Equity, unless one at least of the trustees has bound himself by assent or otherwise, in the testator's lifetime, to execute the illegal trust. *Wallgrave* v. *Tebbs*, 2 Kay & J. 313; 2 Jur. N. S. 83; 25 L. J. Chanc. 241.

A testator, by his will, gave real and personal property to T. and M. absolutely. After his death an unsigned document was found among

his papers, in which were the following passages: "I am confident, from the christian character of T. and M., that if they are not able to do what I would have done, they will make use of what I have given them in such way as seems to them best to promote the glory of God, and the welfare of our fellow sinners. I trust, however, that they will keep — hundred pounds for themselves. It was my intention to have built a church or chapel . . . . and to have endowed it . . . . and to have built ten or twelve almshouses," &c. Neither T. nor M. knew anything of the testator's intention during his life: Held, that there was no secret trust for charitable purposes which could make the gift void under the 9 Geo. 2, c. 36. *Ibid.*

A testatrix bequeathed the residue of her real and personal estate, not applicable under her will, for the purpose of mortmain, to A. and B. his son as joint tenants. She gave the residue of her property, applicable for the purposes of mortmain, to certain charities mentioned in her will. She died possessed of large property, of which the greater part was realty, or personalty savouring of realty. A. was her medical attendant and confidential adviser. On a bill impeaching the devise to A. and B., and alleging that the testatrix had intimated her intention of leaving the bulk of her property to charity, and had communicated her intention to A. who had assented to the gift: Held, (following *Wallgrave* v. *Tebbs*) that it appearing from the evidence that A. was aware of the residuary gift, in the lifetime of the testatrix, and that it was intended by her to be applied for charity, and that either by silence or acquiescence he had led her to suppose that it would be so applied, the gift could not be upheld, and A. and B. were trustees of the property for the plaintiffs, the co-heiresses at law and next of kin. *Jones* v. *Badley*, 3 L. R. Eq. 635.

Securities. Bank shares.—Shares in a joint-stock bank, the assets of which were, by its deed, to be deemed personal estate, and which consisted of freehold and copyhold estates and money due upon mortgages, are not within the Statute of Mortmain. *Myers* v. *Perigal*, 2 De G. Mac. & G. 599; 17 Jur. 145; 22 L. J. Chanc. 431.

Canal shares.—Bequest of shares in a canal navigation company held to be good, but a bequest of securities upon the tolls, rates, and duties, and upon the general estate of the company, created by assignment thereof by way of mortgage, held to be void under the Statute of Mortmain as being a charge upon land. *Langham's Trust, In re*, 10 Hare, 446.

Mining shares.—Shares in a mine conducted on the cost-book principle, held not within the Statute of Mortmain. *Hayter* v. *Tucker*, 4 Kay & J. 243; 4 Jur. N. S. 257.

Iron company.—Bequest of shares in a company which manufactured iron obtained from its own estates: Held void under 9 Geo. 2, c. 36. *Morris* v. *Glynn*, 5 Jur. N. S. 1047; 27 Beav. 218, R.

Railway shares.—Shares in a railway company which had granted a lease of its property for 999 years to another company at a fixed rent, with an option to purchase on notice: Held (affirming decision of Stuart, V.-C., 5 Jur. N. S. 701; 1 Giff. 67; 28 L. J. Chanc. 686) not to be void under 9 Geo. 2, c. 36. *Taylor* v. *Linley*, 29 L. J. Chanc. 534; 8 W. R. 735, C.

Turnpike tolls. Mortgages of railway undertakings.—Mortgages of turnpike tolls and railway undertakings, are interests in land within 9 Geo. 2, c. 36. *Ashton* v. *Lord Langdale*, 4 De G. & S. 402; 15 Jur. 868; 20 L. J. Chanc. 234.

Railway debentures. Shares in railways, canals, waterworks, banking companies, scrip of projected railways.—Railway debentures (not being mortgages), shares in railway, canal, waterwork, and banking companies, and scrip shares in projected railways: Held not to be within the Act. *Ibid.*

Improvement bonds.—Tothill Fields Improvement Bonds are not within the Statute of Mortmain. *Bunting* v. *Marriott*, 19 Beav. 163.

Rates.—A bequest of money lent on the security of an assignment of rates under an Act of Parliament which also authorized the levying of such rates upon the occupiers of houses: Held to be a charge or incumbrance affecting real estate within the Statute of Mortmain. *Thornton* v. *Kempson*, 1 Kay, 592; 23 L. J. Chanc. 977.

Harbour tolls.—Bequest to a charity of money charged on the tolls of a harbour, raised under an Act, and not thereby declared to be personal estate, void under 9 Geo. 2, c. 36. *Ion* v. *Ashton*, 6 Jur. N. S. 819; 8 W. R. 573; 28 Beav. 379.

Interest on mortgage.—Arrears of interest on mortgage of real estate are interests in land within 9 Geo. 2, c. 36. *Alexander* v. *Brame*, 9 Jur. 889; 7 W. R. 719; 30 Beav. 153.

Equitable mortgage.—Money secured by bond or promissory note with a memorandum of deposit of title deeds, and an agreement to execute a legal mortgage, is within the statute. *Ibid.*

Dock debentures.—Money secured by debentures of dock commissioners under an Act of Parliament, and in the form of an assignment of "duties arising by virtue of the Act" are also within the statute. *Ibid.*

Slaughter-houses.—Bequest of money to be applied towards establishment of slaughter-houses, in vicinity of London or Westminster, away from densely populated places: Held void under 9 Geo. 2,

c. 36. *Tatham* v. *Drummond*, 10 Jur. 1087; 34 L. J. Chanc. 1; 13 W. R. 61; 11 L. T. N. S. 324, C.

Suppressed deed.—A deed (which was kept secret by the covenantor until the day of his death) covenanting to invest money for charitable purposes: Held void as to chattels real under 9 Geo. 2, c. 36. *Jeffries* v. *Alexander*, 7 Jur. N. S. 221; 31 L. J. Chanc. 9; 2 L. T. N. S. 768; 8 H. L. Cas. 594, H. L.

Tithes.—A rent-charge was granted to trustees by deed duly enrolled, in consideration of 800*l.* in trust, to pay it to a vicar in lieu of his small tithes, but if the vicar should insist on taking the tithes, then for the poor. Objections that the deed was invalid as a purchase from the vicar, and void in not taking effect in possession as to the foundation in favour of the poor, were over-ruled. *Milbank* v. *Lambert*, 28 Beav. 206.

Tithes, purchase of.—Bequest of pure personalty to purchase impropriate tithes and revest them in the Church of England: Held void, notwithstanding 13 & 14 Vict. c. 94. *Denton* v. *Manners* (*Lord*), 2 De G. & J. 675; 4 Jur. N. S. 724; 27 L. J. Chanc. 623.

Usage.—After the passing of the Mortmain Act lands were devised for the perpetual maintenance of a school, and to pay the proceeds to the schoolmaster. The rents were so applied by the trustees and their heirs for about a century. On an information against the heir to correct abuses, he set up the invalidity of the devise, but the Court held that the onus of proving that no other mode had been adopted for making the charity valid was on the trustee; and decreed that the income, subject to outgoings, was to be paid to the master; and the trustee was removed. *Attorney-General* v. *Moor*, 20 Beav. 119.

Varying investment. Discretion.—Trustees had a discretion to invest a residue on Government or real securities, and to vary investments. A. who subject to a prior life estate, was absolutely entitled, gave the fund to charity both by deed, not enrolled, and by will, and died in the lifetime of the tenant for life. The fund had always been invested in the public funds: Held, notwithstanding the Mortmain Act, that the gift was valid. *Beaumont, In re*, 32 Beav. 191.

Varying investments. Discretion.—A testator directed his trustees to invest his personal estate upon real securities, with power to vary the investments, and bequeathed part to a charity: Held that the discretion as to the mode of investment rendered the gift valid. *Graham* v. *Paternoster*, 8 Jur. N. S. 127; 31 L. J. Chanc. 444; 10 W. R. 209; 31 Beav. 30.

PATRONAGE.

A. and his heirs were appointed feoffees of a school, and patrons for electing a master: Held that the right of patronage was alienable. *Attorney-General* v. *Boucherett*, 25 Beav. 116.

PENDING PROCEEDING.—*See* CERTIFICATE.

PERPETUITY.

Devise of freeholds to the trustees of a public library, established and supported by subscriptions. The rules provided that the books and everything else belonging to the library should be altogether vested in the officers for the time being who should be trustees for the subscribers, and that the institution should not be broken up so long as ten members remained: Held that the devise of freeholds to the trustees for the time being and their successors was void as a perpetuity. *Carne* v. *Long*, 6 Jur. N. S. 639; 29 L. J. Chanc. 503; 8 W. R. 570; 2 De G. F. & J. 75, C.

RATES.

Beneficial occupation.—The Society of Licensed Victuallers was established by charter, which directed that the members of the society should meet together for the purposes of the society four times in every year. A school was established for clothing, educating, and putting out in the world children of distressed and deceased licensed victuallers, in which such children were maintained, clothed, and educated free of charge. The school-house contained a hall in which the meetings of the society were held: Held that the society was liable to be assessed to the poor rate, the general rate for defraying the expenses of the Metropolis Management Act, and the sewers rate in respect of the school premises by reason of their holding meetings in the hall. *Licensed Victuallers' Society* v. *St. Mary Lambeth*, (*Overseers*), 1 El. B. & S. 71; 7 Jur. N. S. 521; 30 L. J. M. C. 131; 9 W. R. 599; 4 L. T. N. S. 241.

Beneficial occupation.—If land and houses produce profit not entirely applied to purely charitable purposes, the occupiers are rateable, although they apply it to purposes beneficial to the public, unless the benefit is enjoyed by all who contribute to the poor rate, and by them exclusively. *Reg.* v. *Temple*, 2 El. & Bl. 160; 17 Jur. 572; 22 L. J. M. C. 129.

National schools are rateable to the poor, although the sums

received from the schools are insufficient for their support. *Laughlin* v. *Saffron Hill, (Overseers)*, 13 W. R. 678; 12 L. T. N. S. 542, Q. B.

School and master's house.—Premises and land were conveyed to trustees to use the same as a school and dwelling for a certain number of poor boys with power to appoint a schoolmaster and necessary servants who should reside in the school-house. Part of the premises was appropriated to the master as a dwelling-house, the remainder of the building being occupied by the servants and boys, the objects of the charity: Held that the master was rateable to the maintenance of the poor in respect of so much of the premises as was in his occupation, and that the trustees were rateable for the remainder; the occupation not being one for public purposes. *Reg.* v. *Stapleton*, 4 B. & S. 629; 10 Jur. N. S. 44.

RECIPIENTS.—*See Attorney-General* v. *Calvert*, pp. 335—336.

RENTS.

A direction in the statutes of foundation of a charity made in 1548, that the rents then paid for the property should not be raised was held inoperative, and that the property must be placed on such a footing as would make it most productive. *Attorney-General* v. *York (Archbishop of)*, 17 Beav. 495.

RE-INVESTMENT.

Costs of.—*See* "Lands Clauses Act."

ROMAN CATHOLIC CHARITIES.

A legacy to a Roman Catholic Chapel was upon the authority of the *Attorney-General* v. *Ruper* (2 P. Wms. 125) directed to be paid to the trustees of the chapel for the necessary repairs. *De Windt* v. *De Windt*, 23 L. J. Chanc. 776.

Superstitious use.—A trust for saying masses for the soul of the founder: Held void, notwithstanding 23 & 24 Vict. c. 134, and the fund ordered to be paid to the representatives of the founder. *Blundell, In re*, 10 W. R. 34; 5 L. T. N. S. 337; 8 Jur. N. S. 5; 31 L. J. Chanc. 52; 30 Beav. 360, R.

Superstitious uses.—Trusts for saying masses, &c., and for other purposes: Held that the gift for masses was void—that the pious uses, could not, as religious uses, be separated from the others, and were therefore also bad—and that the words "pious uses" could not be construed into charitable uses, *Heath* v. *Chapman*, 2 Drew. 417; 23 L. J. Chanc. 947.

SALE.

Consent of Charity Commissioners is not necessary to the sale of land purchased by the investment of voluntary contributions to a charitable society. *Corporation of Sons of the Clergy* v. *Sutton*, 6 Jur. N. S. 84 ; 29 L. J. Chanc. 393 ; 27 Beav. 651, R.

SCHEME.

Apportionment.—Rents and profits were given to be disposed of among the most needy and poor people of a parish at the discretion of the parson and churchwardens for the time being. By a scheme half the rents were to be applied in maintaining certain schools and half in pensions to aged parishioners. The parish was divided into thirteen ecclesiastical districts. In amending the scheme the Master directed the estate to be divided among the several districts, and that as the pensions became vacant the money should be applied by the local incumbents and churchwardens respectively for educating the poor, provided that half the pensions assigned to each district should be retained. One of the Vice-Chancellors modified this order by directing that the proceeds of vacant pensions should be at the discretion of the incumbent and churchwardens for education or pensions according to the wants of the districts : Held, upon appeal, that the view of the Master was correct, and that it was the duty of the Court to regard the primary intention of the testator, namely to benefit the poor and needy persons of the parish. *Lambeth Charities, In re*, 22 L. J. Chanc. 959, L. J.

Discretion of Court.—If a testator has clearly pointed out his intentions, the Court is bound to carry them into effect, but where property is devoted to charity generally, or there are accretions not specifically disposed of, or where the particular charity fails, the Court has a discretion. *Philpott* v. *St. George's Hospital* ; *Attorney-General* v. *Philpott*, 5 Jur. N. S. 664 ; 28 L. J. Chanc. 657 ; 7 W. R. 659 ; 33 L. T. 141 ; 27 Beav. 107.

A charity founded for almshouses for poor reduced by sickness, &c. : Held not to authorize the Court, in settling a scheme, to sanction the building of a hospital or infirmary for their accommodation. *Ibid.* *See also* MORTMAIN, p. 320.

Increase of income.—An estate was given to apply the rents in payment of 20*l.* to a schoolmaster, and 20*l.* towards the purchase of books for, and the repair of, a college library, and two sums of 5*l.* for the poor of two parishes. The rents greatly increased, and the Court in settling a scheme excluded the two parishes on the ground

that any augmentation of such charities would be injurious, and divided the accretions equally between the school and library. *Attorney-General* v. *Marchant*, 12 Jur. N. S. 597; 36 L. J. Chanc. 47; 15 W. R. 144; 3 L. R. Eq. 424, V.-C.K.

The Court has a discretion in settling a scheme to vary the proportions and objects of a gift if good cause exists. *Ibid.*

Jurisdiction of Court over ecclesiastical property.—The Court has jurisdiction over ecclesiastical property when affected by a trust. Where by the foundation the surplus funds were given to the poor, the Court will enforce the trust, though for several centuries the funds, after certain payments to the poor, had been received by the master. *Ibid.*

The right to present to the mastership having been exercised by the municipal corporation for so long a period, the Court refused to interfere with the right. *Attorney-General* v. *St. John's Hospital* (*Bedford*), 11 Jur. N. S. 629; 34 L. J. Chanc. 441; 13 W. R. 955; 12 L. T. N. S. 714.

Variation of scheme.—A charity founded for suppressing idleness and vagrancy, by providing compulsory labour for adults, was varied by providing instruction and intellectual exertion for youth of the same class, with a view to impress on them good principles and industrial habits to direct their future course in life; and a proposed scheme for providing nightly refuge for the destitute, without any condition of labour, was rejected as having a tendency to increase rather than diminish vagrancy and idleness. *Bridewell Hospital, In re*, 6 Jur. N. S. 1134; 8 W. R. 718; 30 L. J. Chanc. 99, R.

Variation of scheme.—A scheme settled by the Court, will be remodelled, if lapse of time and change of circumstances require that alterations should be made in it. *Attorney-General* v. *St. John's Hospital* (*Bath*), 1 L. R. Chanc. App. 92; 12 Jur. N. S. 127; 35 L. J. N. S. Chanc. 207; 14 W. R. 237; 13 L. T. N. S. 616, L. J.

Visitor.—The Court has jurisdiction to establish schemes, although there may be a special or general visitor. *Attorney-General* v. *St. Cross Hospital*, 22 L. J. Chanc. 793; 17 Beav. 435, R; but the Court will not interfere with the powers of a visitor as to internal management unless there is a breach of trust. *Attorney-General* v. *Dedham Grammar School*, 23 Beav. 350; 3 Jur. N. S. 325; 26 L. J. Chanc. 497.

Where governors empowered to make rules.—Although the governors of a private charity are incorporated by royal letters patent, and are empowered to make regulations for its management, the Court has jurisdiction, and will direct a scheme for the future management of the charity, and will include in the scheme other charitable foundations,

some of which were given for purposes wholly different from those of the incorporated charity. *Attorney-General* v. *Dedham Grammar School, (Governors)*, 23 Beav. 350; 3 Jur. N. S. 325; 26 L. J. Chanc. 497.

Visitor.—Unless there is a breach of trust, Court will not interfere with powers of visitor as to internal management. *Ibid.*

SCHOOL.

Boarders.—The Court refused to permit the masters of a grammar school to take boarders where the funds were sufficient to enable the trustees to obtain the services of efficient masters, and the school was well attended by day-scholars. *Bristol Free Grammar School, In re*, 6 Jur. N. S. 285; 29 L. J. Chanc. 514; 28 Beav. 161, R. See also *Attorney-General* v. *Gloucester (Corporation)*, 28 Beav. 438.

Grammar school exhibitions.—A scheme provided that exhibitioners from a grammar school were to be such as had been three years at the school: Held that the three years must immediately precede the election. *Storie, In re*, 7 Jur. N. S. 31; 30 L. J. Chanc. 193; 9 W. R. 323; 3 L. T. N. S. 638; 2 De G. F. & J. 529, L. J.

Capitation fees.—Where the revenues of a grammar school through depreciation proved insufficient to carry out the provisions of a scheme for an enlarged system of education, and insufficient also to benefit the whole number of scholars for whom there was accommodation, the Court sanctioned the admission of other scholars on payment of a capitation fee, provision being made for the admission of the free scholars by examination, so as to avoid any invidious distinction between the two classes, and for regulating the number of free scholars according to the state of the income. *Manchester Free Grammar School, In re*, 11 Jur. N. S. 946; 35 L. J. Chanc. 46; 14 W. R. 77; 13 L. T. N. S. 360; 1 L. R. Eq. 55.

But on appeal the Court held (differing from Wood, V.-C.), that all the scholars, whether paying or free, should be equally considered as on the foundation, and that no distinction should be made between them with respect to exhibitions and prizes, and also that there should be no competitive examination for the free scholars on their admission. 2 L. R. Chanc. App. 497.

Grammar school.—A school was founded by letters patent, and afterwards incorporated by statute, for "the teaching of children in grammar freely, without any exaction or request of money, not exceeding the number of 144:" Held, that instruction in Latin and Greek was imperative by the terms of the foundation. The average number of scholars presenting themselves from the town of B. and its neighbourhood having never exceeded 50, the Court refused to adopt a proposal

for increasing the number of scholars by throwing the school open to the whole world, and establishing dames' houses in the town, *and* sanctioned a scheme for enlarging the school by allowing the head-master to take boarders. *Berkhampstead School Case, In re*, 1 L. R. Eq. 102.

An offer of a grant of money to an endowed school, accompanied by conditions that exhibitions to the university of like amount to the interest of the grant should be maintained out of the school revenues, and the capital of the grant applied in restoration and enlargement of the masters' houses, was accepted by the Court. *Ibid.*

A scheme settled in 1857, providing that 5*l.* a year should be paid to the masters for each foundation boy out of the school revenues, so far as they would extend, and when they failed, then by the parents of such foundation boy; and that 9*l.* a year should be paid by the parents of each boy not on the foundation; was varied by directing that a fee of 3*l.* 3*s.* a year should be paid for each foundation boy, to the number of 50, out of the school revenues, and that 144 foundation scholars should be elected, with preference to town boys, for whom capitation fees were to be paid out of the revenues of the school, so far as the income would extend, but that no town boy should pay more than 3*l.* 3*s.* as a capitation fee. *Ibid.*

Remuneration of master.—The remuneration of a master ought not to be limited under the notion that part of the revenues can be more usefully employed in establishing exhibitions or scholarships. Ample instruction in the school is the first thing to be provided. *Attorney-General* v. *York* (*Archbishop of*), 17 Beav. 495.

Advowson, sale of.—Part of the charity property consisted of a rectory situate 40 miles from the school: Held that if it had been within a reasonable distance, and the duties light, the master or usher might have filled the office of rector; but under the circumstances the Court directed the advowson to be sold for the benefit of the charity. *Ibid.*

Selection of scholars.—By an Act for employing and maintaining the poor of a city, certain persons were constituted guardians of the poor for the purposes of managing a charity school, with a direction that the rents should be applied for maintaining and lodging 16 poor boys of the city, to be called blue coat boys, who were to be elected by the mayor and corporation: Held that the election need not be confined to those boys who required parish relief or to the children of such persons. *Canterbury* (*Guardians*) v. *Canterbury* (*Mayor, &c.*), 31 L. J. Chanc. 810; 10 W. R. 609; 6 L. T. N. S. 637, V.-C.K.

Church of England.—The Court having inferred from reference

being made to the parish church in the deed of endowment, that a school, founded in 1601 by a member of the Church of England, was a Church of England school: Held that the trustees, and the schoolmaster also, if possible, ought to be members of that church, but that the school was open to scholars of all denominations. *Attorney-General* v. *Clifton*, 9 Jur. N. S. 939; 9 L. T. N. S. 136; 32 Beav. 596, R.

Trustees.—The Court, though holding that a trustee had been originally improperly appointed, declined to remove him. *Ibid.*

Trustees.—Residence of trustees within a parish being a necessary qualification: Held that removing to a distance, rendering attendance impossible, was a vacating of the office. *Ibid.*

Church of England.—A school founded by King Edward VI. by letters patent (1550), for education and instruction in grammar, the management of which was committed to governors, who were empowered to make statutes for that purpose with the advice of the bishop, was held to be a Church of England school. *Attorney-General* v. *Sherborne Grammar School*, 15 Beav. 256; 18 Jur. 636; 24 L. J. Chanc. 74.

Religious instruction.—Clauses, by which it was proposed on the one hand to exempt children whose parents or guardians should on conscientious grounds object to instruction in the scriptures or in the catechism, liturgy, &c., of the Church of England; and on the other hand to require that the scholars should be so taught, were rejected, the subject of religious instruction being one which ought to be left to the direction of the governors with the advice of the bishop. Held, however, that a general scheme for such a school would be imperfect without some positive direction respecting religious instruction, and that the scholars should be instructed in religion according to such statutes and ordinances as should be made from time to time by the governors, pursuant to the powers contained in the charter. *Chelmsford Grammar School*, 1 K. & J. 543; 24 L. J. Chanc. 742.

Such grammar schools were founded not only for teaching grammar, but also for sound religious education, which, looking to the period at which the schools were founded, must mean education according to the doctrines and discipline of the Church of England. *Ibid.*

Religious instruction.—A preachership, school, and almshouses, were founded in 1614, but neither the will nor the charter of foundation contained any directions as to the religious instruction of the scholars. The latter empowered the governors to make statutes "for the good rule and governance of the school," not repugnant to the laws of the realm, statutes were made requiring the scholars to attend

church and receive religious instruction. Held not to be a Church of England school, and that children, whose parents objected, should neither be compelled to attend church nor receive religious instruction. *Attorney-General* v. *Haberdashers' Company*, 19 Beav. 385; 24 L. J. Chanc. 329.

Religious Instruction.—In educational charities, particular rules as to religious instruction will not be enforced unless there is expressed intention to that effect. *Attorney-General* v. *Calvert*, 23 Beav. 248; 3 Jur. N. S. 500; 26 L. J. Chanc. 682.

Recipients.—In charities of a purely eleemosynary character, all classes, irrespective of religious doctrines, should participate unless excluded by the instrument of foundation, the burthen of proof being on those who seek to exclude. *Ibid.*

Dissenters.—Dissenters were held not to be excluded from almshouses founded before the Reformation by a rector for certain poor, to be nominated by the rector and churchwardens, with directions that the inmates should attend chapel daily and say certain prayers, if they could conscientiously comply with the founder's directions, modified as they are by the Reformation and the statutes since passed; and that it was not open to the trustees to examine if they do so sincerely, or whether, having regard to their other religious observances and expressed opinions, they are or are not members of the Church of England. *Ibid.*

Usage.—Immemorial usage is no test of the exclusive character of a charity in the absence of evidence or unavoidable inference. *Ibid.*

Recipients.—In a charity for distributing bread to such as should be and abide at the church, regularity of attendance alone is necessary to entitle the poor to participate. *Ibid.*

Removal of school from a city.—A school was founded in the city of Bristol in 1701 for the support and education of boys. The Court, on its appearing beneficial, sanctioned its removal, and the purchase of a site outside the city. *Colston's Hospital, In re*, 27 Beav. 16.

Trustees.—A grammar school was founded by Edward VI., and the trustees were by the Charter empowered, with the advice of the bishop, to make statutes and ordinances. Held to be a Church of England school, and that the trustees must be of that church, but the Court in directing a scheme refused to give any special directions as to religious instruction, further than that it was to be in accordance with the statutes made from time to time by the trustees and the bishop. *Stafford Charities, In re*, 3 Jur. N. S. 1191; 27 L. J. Chanc. 381; 25 Beav. 28, R.

SCHOOL.—*See* also MORTMAIN.

SECRET TRUST.

A devise upon a secret trust passes the legal estate in trust for the heir of the testator. *Sweeting* v. *Sweeting*, 12 W. R. 239; 10 Jur. N. S. 31 V.-C.K.

TOMBS.

Graves.—A bequest on trust to apply the income in maintaining the testator's family graves, and to pay the surplus to the rector for the time being. Held, that the first was void as a perpetuity, and the second for uncertainty. *Fowler* v. *Fowler*, 10 Jur. N. S. 648; 33 L. J. Chanc. 674; 10 L. T. N. S. 682; 33 Beav. 616, R.

Tombs in Churchyard. Monuments in church.—Bequest, the income to be applied for a yearly journey to a church, in repairing, cleaning, &c., the tomb, railing, and yew tree in the churchyard, and the family monument, &c., in the church, and the residue for the poor. The income was applied for some years. Held on petition presented by the residuary legatees that the gift as to the monument, &c., in the church was good, that as to the tomb in the churchyard was void. *Rigley, In re*, 15 W. R. 190, V.-C.K.

Tombs in Churchyard.—Bequest to the churchwardens of a parish, the income to be applied in keeping up certain tombs in the churchyard. Held to be void. *Rickard, In re*; *Rickard* v. *Robson*, 8 Jur. N. S. 665; 31 L. J. Chanc. 897; 10 W. 657; 7 L. T. N. S. 87, R.

Church. Repair of Windows and Monuments.—A gift of personal estate in perpetuity to a minister and churchwardens for the maintenance and repair of an existing ornamental window and a monument in the parish church is good, being for the maintenance of the fabric and within the scope of 43 Eliz. c. 4. *Hoare* v. *Osborne*, 1 L. R. Eq. 585; 12 Jur. N. S. 243; 35 L. J. Chanc. 345; 14 W. R. 383; 14 L. T. N. S., 9. V.-C.K.

Vault in Churchyard.—Secus, as to the like gift for the repair of a vault outside the church. *Ibid.*

Fabric or ornaments.—Generally, a gift for the repair in perpetuity of any part of the fabric or ornaments of a church is for the public benefit, and therefore good. *Ibid.*

TRUSTEES.

Petition for appointing.—Petitions for the appointment of new trustees of charities should be entitled in the matter of 52 Geo. III. c. 101, as well as in the matter of the Trustee Act, 1850, and the attorney-general's fiat should be obtained. *Rolle's Charity, In re,*

3 De G. Mac. & G. 153; 22 L. J. Chanc. 760; 10 Hare (App.) xxxix. *Bierton Charity Land, In re*, 10 Hare (App.) xxxviii.

Trustees.—The same rule applies to the case of a petition for the appointment of trustees of a Wesleyan chapel. *Varteg Iron Works Wesleyan Chapel, In re*, 10 Hare (App.) xxxvii.

Appointment of Trustees.—Land was given for the repairs of a church, and the rent was paid to, and applied by, the churchwardens for that purpose. Disputes arose; and an application was made by the rector and his churchwarden to a county court judge to appoint trustees; he appointed the rector, churchwardens, overseers, and the surveyor of the highways, and their successors for the time being, and a landowner of the parish. On appeal by the rector, the court appointed the rector and churchwardens alone, and directed his costs to be paid out of the estate, and the costs of the respondents by themselves. *Donington on Bain, In re*, 6 Jur. N. S. 290; 8 W. R. 301; 2 L. T. N. S. 10, V.-C.S.

Transfer to Municipal Trustees.—By letters patent in 1637 the mayor, recorder, aldermen, and common council of a city were incorporated and constituted governors of the hospital of J. The recorder was not a member of, though elected by the corporation, of the city. Held, that since the Act 5 & 6 Will. IV. c. 76, the hospital corporation was so far identical with the municipal corporation as to be within the spirit, if not the letter, of the 71st section of the Act, and therefore (without deciding whether the hospital corporation any longer existed, or in whom the legal estate in the hospital lands was vested) that the administration of its trust estates was rightly transferred to the charity trustees appointed under the Act. *Attorney-General* v. *Mayor of Exeter*, 2 De G. Mac. & G. 307; 17 Jur. 265.

Appointment of, where Municipal Corporations Trustees of Charity.—The master of a hospital who was a corporation sole, appointed by the presentation of a municipal corporation, and instituted by the bishop, who was visitor. Held within 5 & 6 Will. IV. c. 76, sec. 71. *Huntingdon Charities, In re*, 5 Jur. N. S. 950; 33 L. T., 281; 27 Beav. 214, R.

Selection of Trustees.—In selecting trustees the question is, whether the persons proposed are proper to be appointed, not whether they are the most proper. *Lancaster Charities, In re*, 7 Jur. N. S. 596; 9 W. R. 192; 3 L. T. N. S. 582, V.-C.W.

Eligibility of Dissenters as Trustees.—Lands were conveyed to trustees in 1549, upon trust to appoint a schoolmaster to instruct "in all godly learning and knowledge, as in other manner of learning," to repair the school-house, to pay master's salary, and bestow the residue

in repairing highways, bridges, and watercourses. Upon the question whether Dissenters were eligible as trustees, the lords justices reversed the decision of Romilly, M.R., being of opinion that education in conformity with the doctrines of the Church of England was the primary object, and held that Dissenters were not proper persons to be trustees, and this was confirmed on appeal to the House of Lords—the Lords being equally divided. *Baker* v. *Lee; In re Ilminster School*, 8 H. L. Cas. 495; 7 Jur. N. S. 1; 30 L. J. Chanc. 625.

Trustees, appointing. Vestry. Local Management Act.—The power of appointing new trustees of a charity was by a decree vested in the parishioners and inhabitants of a metropolitan parish "in vestry assembled." Held, that after the passing of the Metropolis Local Management Acts, which altered the parish vestry from an open to a close vestry, the power of appointing new trustees was vested in the newly constituted vestry. *Halye, In re*, 8 Jur. N. S. 810; 7 L. T. N. S. 18; 31 L. J. Chanc. 612, R.

Removal.—Where a trustee of a Dissenting chapel had ceased to be a member of the particular body, it was held not to be a ground for his removal from the trust, the trust deed containing no provision on the subject. *Attorney-General* v. *Clapham*, 10 Hare, 540; 23 L. J. Chanc. 70.

Trustee Lessee of Charity Land.—A scheme in 1855 provided that no person should act as a trustee who should occupy any of the charity property; one of the trustees held a small piece of the charity land on lease granted in 1847 by public tender. Held, that he must give up the lease, or the trusteeship. *Foord* v. *Baker*, 27 Beav. 193.

Trustees, municipal.—Appointment of new trustees under provisions of Municipal Corporations Act may be made by the vice-chancellors. *Gloucester Charities, In re*, 10 Hare (App.) iii.

USAGE.—*See Attorney-General* v. *Calvert*, p. 337.

Where the origin of a charity is lost in obscurity the court will determine trusts or rights by the usage, but not where an origin contrary to long continued usage can be proved. *Attorney-General* v. *St. Cross Hospital*, 22 L. J. Chanc. 793; 17 Beav. 435, R.

Lay Foundation.—A founder's direction that the master of a hospital for poor without cure of souls shall be a clerk in holy orders, does not make it a spiritual foundation. *Ibid.*

Schemes. Jurisdiction of Court. Visitor.—The court has jurisdiction to establish schemes for charities, although a special or general visitor may have been appointed by the founder. *Ibid.*

The Hospital of St. John (Bedford) was established for the support of two or three brethren, of whom one was to be master, and for the relief of the poor of Bedford. The rectory of St. John was always united with the mastership, and for nearly four centuries the appointment of master was made by the corporation of Bedford, but there was no evidence as to how the right vested in them. The master was previously elected by the brethren. The hospital corporation was still in existence, but there had been no brethren since 1444. Alms to a limited extent continued to be given to the poor. Held, that the original trust being clear the charity estates continued impressed therewith. *Attorney-General* v. *St. John's Hospital (Bedford)*, 11 Jur. N. S. 629; 34 L. J. Chanc. 441; 13 W. R. 955; 12 L. T. N. S. 714.

A partition was made under an Act in 1819, and lot 2 in the schedule was allotted to W., and in the same schedule four measures of corn, by long custom distributed to the poor, were mentioned as attaching to that lot, though not expressly said to be charged thereon. For 30 years W. paid a sum of money in respect of the corn, and his son succeeding, his agents continued the payment for two years. Payment was then opposed. On information against the son to establish the charity the value of the corn was decreed, and affirmed on appeal, to be a charge on the land. *Attorney-General* v. *West*, 27 L. J. Chanc. 789; 5 Jur. N. S. 77, L. J.

Where there is no instrument of foundation, or where the words are ambiguous, the usage constitutes presumptive evidence of the trusts; but where the deed is produced, and is precise, the presumption is excluded. *Attorney-General* v. *Gould*, 28 Beav. 485; 7 Jur. N. S. 485.

No length of usage will warrant a deviation from the terms of an express trust. *Attorney-General* v. *Rochester (Corporation)*, 5 De G. Mac. & G. 797.

PRECEDENTS.

[NOTE.—The following Precedents are given merely with a view to assist in the preparation of such documents as they may be found applicable to :—]

PRECEDENT I.

FORM *of* DECLARATION *of* TRUST.

I, (*A. B.*) of ——, (*residence*) in the county of ——, (*description*) being desirous of transferring, with the authority of the Charity Commissioners for England and Wales, into the name of "The Official Trustees of Charitable Funds" the sum of ——, in order that the dividends thereof may be applied to the charitable purposes, and through the agency of the local trustees hereinafter appointed, and being required by the said Commissioners previously to such transfer, to declare the intended trusts of the premises ——, do hereby declare that the said sum of —— is proposed to be transferred by me, or by my procurement, into the name of the said official trustees, under the order of the said Commissioners: UPON trust that the dividends to arise therefrom may for ever thereafter be paid or remitted by the said official trustees unto (*names, residences, and descriptions, of the local trustees*) and their successors, as the local trustees of the charity intended to be hereby created, or to any or either of the said trustees, whose receipt shall be a sufficient discharge for the same, but for their joint account and disposal: UPON trust to be applied by them to the following purposes (that is to say) (*set out trusts*): AND it is my desire that the charity intended to be hereby created shall be called ——. IN WITNESS whereof I have hereunto set my hand this —— day of ——, 18—.

Signed by the above-named —— in the presence of ——.

PREC. II.

PRECEDENT II.

CONDITIONS *of* SALE.

[NOTE.—In the preparation of conditions of sale, some one or more of the following special clauses, which have been prepared with a view to the protection of charities from undue risk and expense, may be found useful :—]

Where title derived under deed or will.

The property offered for sale forms part of the ancient possessions of the Charity called ——, created by deed [*or*, the will of ——] dated the —— day of ——, 1—, of which charity the vendors are the present trustees under or by virtue of a certain Indenture, dated the —— day of ——, 18—. The property is sold by the vendors as the trustees of the said charity with the consent and under the authority of the Charity Commissioners for England and Wales, and the purchaser thereof shall not require the production of any other evidence of title than the said several Indentures (attested copies of which will be furnished to the purchaser if desired by him at his expense, but the originals of which will be retained by the vendors); and an official copy of the order of the said Commissioners authorizing the sale, and a statutory declaration made by some competent person that the property sold has been in the possession of the trustees of the said charity for upwards of thirty years, which copies and declaration respectively shall be prepared and furnished at the expense of the purchaser.

Where property vested by order of the Charity Commissioners.

The property offered for sale forms part of the endowment of the charity called —— (which is now vested in the official trustee of charity lands by an order of the Board of Charity Commissioners for England and Wales dated the —— day of —— 18—, and is sold by the vendors as the trustees of the charity appointed by the same order) *or* [of which charity the vendors were appointed to be the trustees by an order of the Board of Charity Commissioners for England and Wales dated the —— day of ——, 18—. The property is sold by the trustees] with the consent and under the authority of the said commissioners, and the purchaser shall admit the sufficiency of the title of the said trustees under the said order, and the vendors shall not be bound to deliver any abstract of title, or to produce any deeds or any other evidence of their title to

the property sold, than an official copy of the order of the said commissioners appointing the said trustees, and of the order of the said commissioners sanctioning the present sale, and a statutory declaration made by some competent person that the property sold has been in the possession of the trustees of the said charity for upwards of thirty years, which copies and declaration respectively shall be prepared and furnished at the expense of the purchaser.

Identification of parcels.

If the purchaser require any evidence to identify the property now sold with that which is described in the order of the Board of the —— day of ——, 18—, such evidence shall be furnished at the expense of the purchaser.

PRECEDENT III.

FORM *of* CONVEYANCE *of* CHARITY LAND.

1. THIS INDENTURE, made the —— day of ——, 18—, BETWEEN [*If the property be vested in the Official Trustee of Charity Lands*] Henry Morgan Vane, of No. 8, York Street, St. James's Square, in the City of Westminster, Esquire, the Official Trustee of Charity Lands for the time being constituted under the provisions of the Charitable Trusts Acts of the first part [*if not vested in the Official Trustee omit the preceding clause*], A. B., of &c., C. D., of &c., being the trustees of the Charity commonly called or known as ———— Charity, in the parish of ——, in the county of ——, of the second part [*or first part, as the case may be*] and E. F., of &c., [*purchaser*] of the third part [*or second part, as the case may be*]:

2. WHEREAS by an order made by the Board of Charity Commissioners for England and Wales in the matter of the aforesaid charity dated the —— day of ——, 18—, it was ordered that the said parties hereto of the second [*or first*] part (hereinafter called the said trustees) should be and they were thereby appointed to be trustees of the said charity, and it was further ordered that the legal estate in the hereditaments intended to be hereby granted should be, and the same were thereby vested in the Official Trustee of Charity Lands and his successors in trust for the said charity [*or*, in the said trustees, their heirs and assigns in trust for the said charity, *as the case may be*]:

PREC. III.

3. AND WHEREAS by a further order made by the said board in the matter of the said charity dated the —— day of ——, 18—, the said trustees were authorized within six calendar months from the date of the said order to sell the hereditaments described in the schedule thereunder written (being the hereditaments hereinafter described and intended to be hereby granted) for not less than the sum of £——[*If sold by auction*, being the highest price offered for the same at a sale thereof by public auction lately held by the said trustees with the approval of the said board], and to do and execute all proper acts and assurances for carrying the said sale into effect, and to give a conclusive discharge to the purchaser for the said purchase money, and the said board further authorized and directed the Official Trustee of Charity Lands in whom the legal estate in the said hereditaments was vested for the use of the said charity, to concur in the conveyance thereof to the purchaser, if he should require such concurrence : [*If the property be vested in the trustees of the charity by deed, omit the preceding recitals.*]

4. WHEREAS the hereditaments hereinafter described, and intended to be hereby granted, form part of the property belonging to the aforesaid charity, created by an indenture bearing date the —— day of ——, 18—, and are now vested in the trustees thereof by virtue of an Indenture bearing date the —— day of ——, 18—, and made between A. B. of the first part, and C. D. of the second part [*or as the case may be*], [*here recite order authorizing sale, as in No.* 3] :

5. AND WHEREAS on the —— day of ——, 18—, the said trustees in pursuance of the order for sale hereinafter mentioned, caused the hereditaments intended to be hereby granted [together with other hereditaments comprised in the said order of the —— day of ——, 18—], to be put up for sale by public auction in several lots, and at such sale the said E. F. [*purchaser*], was declared the highest bidder for, and the purchaser of the hereditaments intended to be hereby granted, being lot —, at the price of £——, and thereupon paid the sum of £— by way of deposit, and in part payment of the said sum of £——, and contracted to pay the remainder of the said sum of £——, and to complete his purchase in accordance with certain conditions of sale, produced at the said auction on the —— day of ——, 18— :

6. AND WHEREAS the said board having considered the

premises, and being satisfied that the sale of the said hereditaments would be advantageous to the said charity, did by a further order made in the matter of the said charity, dated the —— day of ——, 18—, upon the application of the said trustees, authorize them within six calendar months from the date of the said order to sell the said hereditaments for not less than £—— sterling, and to do and execute all proper acts and assurances for carrying such sale into effect, and to give a conclusive discharge to the purchaser for the said purchase money [*here continue recital as in No.* 3]:

NOW THIS INDENTURE WITNESSETH that in consideration of the sum of £—— to the said trustees, paid by the said [*purchaser*] at or before the execution of these presents, the receipt of which sum of £—— the said trustees do hereby acknowledge, and from the same and every part thereof do acquit, release, and discharge the said [*purchaser*], his heirs, executors, administrators, and assigns, and every of them by these presents: He, the said Henry Morgan Vane, as such official Trustee of Charity Lands as aforesaid, according to his estate and interest in the premises, but not further or otherwise, and pursuant to the authority so given to him by the said last recited order of the said Board, and at the request of the said trustees, doth hereby grant and convey, and they, the said trustees, do and each and every of them doth grant release and confirm unto the said [*purchaser*] and his heirs all, &c. [*parcels*], together with all houses, outhouses, buildings, yards, gardens, trees, hedges, commons, and commonable rights ways, paths, passages, watercourses, easements, privileges, and appurtenances whatsoever to the said hereditaments and premises hereby assured or intended so to be, or any of them respectively belonging or appertaining, or with the same or any part thereof, held, used, or enjoyed or reputed as part thereof, or appurtenant thereto: And all the estate, right, title, interest, property, claim, and demand whatsoever of the said Henry Morgan Vane, as such official Trustee of Charity Lands as aforesaid, and of the said trustees respectively of, in, to or out of the said hereditaments and premises, and every part thereof: To hold the said hereditaments and premises unto the said [*purchaser*], his heirs and assigns; And it is hereby declared that no widow of the said [*purchaser*] shall be entitled to dower out of the said premises. And each of them the said trustees, severally and apart from every other of them,

The official trustee does not covenant.

PREC. III.

and as concerning only his own separate acts and defaults, doth hereby for himself, his heirs, executors, and administrators, covenant with the said [*purchaser*], his heirs and assigns, that the said respective covenantors have not at any time or times heretofore done, committed, or suffered, or been party or privy to any act, deed, or thing whatsoever, whereby or by reason whereof the said hereditaments and premises hereby assured or intended so to be, or any part thereof are, is, or can be impeached, charged, incumbered, or prejudicially affected in title, estate, or otherwise howsoever. In witness, &c.

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